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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
PLAINTIFF-RESPONDENT,)
)
VS.) SUPERIOR COURT
) NO. A-090435
)
JOE HUNT, AKA JOSEPH HUNT,)
)
AKA JOSEPH HENRY GAMSKY,)
)
DEFENDANT-APPELLANT.)

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE LAURENCE J. RITTENBAND, JUDGE PRESIDING
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

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FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME ⁵⁰ OF 101
(PAGES 7498 TO 7673 , INCLUSIVE)

COPY

ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
OFFICIAL REPORTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

NO. A-090435

JOSEPH HUNT,)

DEFENDANT.)

REPORTERS' DAILY TRANSCRIPT
THURSDAY, FEBRUARY 12, 1987

VOLUME 50

PAGES 7498 TO 7673, INCL.

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ORIGINAL

ROSEMARIE GOODBODY, CSR NO. 932
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1 SANTA MONICA, CALIFORNIA; THURSDAY, FEBRUARY 12, 1987; 10:45 A.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4
5 (WHEREUPON, THE FOLLOWING PROCEEDINGS
6 WERE HELD IN OPEN COURT OUTSIDE THE
7 PRESENCE OF THE JURY:)

8 MR. WAPNER: I HAVE A WITNESS, ACTUALLY SEVERAL WITNESSES,
9 AND I AM READY TO PROCEED.

10 COUNSEL HAS FILED A MOTION THAT --

11 THE COURT: I HAVEN'T SEEN ANY MOTIONS.

12 MR. WAPNER: WELL, I JUST GOT IT THIS MORNING.

13 THE CLERK: I DID, TOO, YOUR HONOR.

14 (WHEREUPON, A DOCUMENT WAS HANDED
15 TO THE COURT BY THE CLERK.)

16 MR. WAPNER: I PREFER AT LEAST TO PROCEED WITH THE FIRST
17 WITNESS.

18 I HAVE DISCUSSED SOMETHING ABOUT THE SECOND WITNESS
19 WITH COUNSEL THAT NEEDS TO BE CLARIFIED.

20 MR. BARENS: YOU MEAN ON THE -- EXCUSE ME, YOUR HONOR.

21 THE COURT: YES.

22 MR. BARENS: I WANT TO MAKE SURE WHAT WE ARE TALKING
23 ABOUT.

24 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

25 MR. WAPNER: WE CAN START WITH MR. MILLIKEN, YOUR HONOR.

26 MR. BARENS: I THINK WHAT WE CAN DO, YOUR HONOR -- I
27 DON'T THINK WHAT WE ARE GOING TO BE DOING THIS MORNING WILL
28 NECESSARILY INVOLVE THE MOTION. WE CAN FINISH THIS MORNING

1 AND YOUR HONOR COULD REVIEW THE PLEADINGS AFTER NOON AND THEN
2 WE COULD PLEAD THE MATTER PRIOR TO THE NEXT WITNESS.

3 THE COURT: ALL RIGHT.

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1 MR. WAPNER: YOUR HONOR, AS FAR AS THE WITNESSES THAT
2 ARE THE SUBJECT OF THIS PLEADING, A COUPLE OF THEM AT LEAST --
3 IF IT IS AT ALL POSSIBLE, THEY NEED TO TESTIFY TODAY BECAUSE
4 THEY ARE FROM OUT OF STATE AND THEY NEED TO GET BACK. SO --

5 THE COURT: WELL, LET'S GET THE JURORS IN AND START.

6 MR. WAPNER: YOUR HONOR, OBVIOUSLY, THAT PRESUPPOSES
7 A RULING NEGATIVE TO THE DEFENSE. YOUR HONOR IS NOT GOING TO
8 BE IMPRESSED BY THEIR NEED TO RETURN TO NEW YORK IN MAKING
9 A DECISION?

10 THE COURT: LET'S GO ON, IF YOU WILL. GET THE JURORS,
11 PLEASE.

12 (THE JURY ENTERS THE COURTROOM.)

13 THE COURT: ALL RIGHT. GOOD MORNING, LADIES AND
14 GENTLEMEN.

15 MR. WAPNER: YOUR HONOR, I AM LOOKING FOR AN EXHIBIT.

16 (PAUSE.)

17 MR. WAPNER: THE PEOPLE CALL CHARLES MILLIKEN.

18
19 CHARLES MILLIKEN,
20 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
21 AS FOLLOWS:

22 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN.

23 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU MAY
24 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
25 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP
26 YOU GOD?

27 THE WITNESS: I DO.

28 THE CLERK: BE SEATED AT THE WITNESS STAND. PLEASE

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STATE YOUR NAME FOR THE RECORD. SPELL YOUR NAME.

THE WITNESS: CHARLES S. MILLIKEN, M-I-L-L-K-E-N.

DIRECT EXAMINATION

BY MR. WAPNER:

Q MR. MILLIKEN, BY WHOM ARE YOU EMPLOYED?

A CHASE MANHATTAN BANK.

3 FO.

3-1

1 Q AND IN WHAT CAPACITY?

2 A I AM AN OFFICIAL, ASSISTANT TREASURER.

3 Q AND AS ASSISTANT --

4 HOW LONG HAVE YOU BEEN EMPLOYED BY CHASE MANHATTAN
5 BANK?

6 A APPROXIMATELY FIVE YEARS.

7 Q AND HAVE YOU BEEN ASSISTANT TREASURER THE
8 WHOLE TIME?

9 A NO.

10 I HAVE BEEN ASSISTANT TREASURER FOR APPROXIMATELY
11 TWO AND A HALF YEARS.

12 Q WHAT WAS YOUR TITLE DURING 1984?

13 A IN APRIL OF '84, I WAS MADE AN ASSISTANT
14 TREASURER-MANAGER, WAS MY COMPLETE TITLE.

15 Q WHAT DO YOUR DUTIES CONSIST OF AS ASSISTANT
16 TREASURER OR MANAGER?

17 A AT THAT TIME, I WAS MANAGING THE INVESTIGATIONS
18 OF TRAVELER'S CHECKS FOR THE CHASE TRAVELER'S CHECK SERVICE
19 CORPORATION.

20 Q WHAT IS THE CHASE TRAVELER'S CHECK SERVICE
21 CORPORATION?

22 A THAT IS A WHOLLY-OWNED SUBSIDIARY OF CHASE
23 MANHATTAN BANK.

24 Q DOES CHASE MANHATTAN BANK ISSUE TRAVELER'S
25 CHECKS?

26 A YES.

27 Q DID THEY?

28 A IT DOES THROUGH ITS SUBSIDIARY.

1 Q AND WHAT IS THE SUBSIDIARY?

2 A THAT IS THE CHASE TRAVELER'S CHECK SERVICE
3 CORPORATION.

4 Q THAT IS THE ONE YOU WORK FOR?

5 A I WORK FOR THE CHASE MANHATTAN BANK.

6 Q OKAY.

7 A THE SUBSIDIARY IS THE ONE THAT ACTUALLY ISSUES --
8 WELL, THE CHASE MANHATTAN BANK ISSUES THE TRAVELER'S CHECKS
9 THROUGH ITS SUBSIDIARY.

10 Q ARE YOU FAMILIAR WITH THE PROCEDURES THAT
11 ARE FOLLOWED WHEN THE CHECKS ARE ISSUED?

12 A YES.

13 Q WHAT IS YOUR MAIN JOB, ASIDE FROM YOUR TITLE,
14 WHAT IS YOUR MAIN JOB AT THE BANK?

15 A MANAGING INVESTIGATIONS, THE SPECIAL INVESTIGATORS
16 WHO INVESTIGATED PROBLEMS WITH THE TRAVELER'S CHECKS INVOLVING
17 FRAUD, THEFT, LOSSES.

18 MR. WAPNER: MAY I HAVE JUST A MOMENT, YOUR HONOR?

19 THE COURT: YES.

20 Q BY MR. WAPNER: IN THAT CAPACITY, ARE YOU
21 FAMILIAR WITH HOW THE TRAVELER'S CHECKS ARE ISSUED BY
22 THE BANK AND THE RECORDS THAT ARE KEPT TO KEEP TRACK OF
23 THOSE TRAVELER'S CHECKS?

24 A YES, I AM.

25 Q AND WHEN THE BANK MARKETS ITS TRAVELER'S CHECKS,
26 HOW IS THAT DONE?

27 A THE TRAVELER'S CHECKS ARE SOLD THROUGH VARIOUS
28 SALES AGENTS.

4-1
1 Q AND ARE THOSE OTHER BANKS?

2 A MANY TIMES, YES.

3 Q IN 1984, WAS OLYMPIC NATIONAL BANK IN LOS ANGELES
4 ONE OF THE SALES AGENTS FOR CHASE MANHATTAN TRAVELER'S CHECKS?

5 A IT WAS.

6 Q WHEN TRAVELER'S CHECKS ARE SOLD BY CHASE
7 MANHATTAN -- LET ME STRIKE THAT.

8 HOW DO THE TRAVELER'S CHECKS GET FROM CHASE
9 MANHATTAN TO ONE OF ITS AGENTS? DOES THE AGENT BUY IT?

10 A NO. THE CHECKS ARE SENT BY CHASE MANHATTAN TO
11 ITS SALES AGENTS AT THEIR REQUEST. THERE IS NO CHARGE
12 AT THAT TIME.

13 THE SALES AGENT WILL ACKNOWLEDGE RECEIPT OF THE
14 CHECKS AND WHEN THEY ARE SOLD TO CUSTOMERS, THEY WILL SEND
15 THE MONEYS BACK TO CHASE MANHATTAN.

16 Q DOES CHASE MANHATTAN BANK KEEP A RECORD OF THE
17 CHECKS THAT IT SENDS OUT TO ITS VARIOUS AGENTS?

18 A THEY DO.

19 Q AND WHEN THE AGENT -- AND IS THAT A RECORD OF
20 THE TRAVELER'S CHECKS BY NUMBER?

21 A YES, IT IS.

22 Q WHAT HAPPENS WHEN THE AGENT, IN THIS CASE OLYMPIC
23 NATIONAL BANK, SELLS THE TRAVELER'S CHECKS TO A CUSTOMER?
24 IS THERE A RECORD KEPT OF THAT?

25 A THERE IS A RECORD KEPT. THE SELLING AGENT WILL
26 HAVE THE CUSTOMER FILL OUT A PURCHASE AGREEMENT AT THE TIME
27 OF THE PURCHASE.

28 AND THE MONEYS THE BANK OR THE SALES AGENT RECEIVE

4- 1 FOR THE CHECK WILL BE SENT BACK TO CHASE MANHATTAN BANK.

2 Q DOES CHASE MANHATTAN BANK KEEP A RECORD OF THE
3 CHECKS THAT ARE SOLD BY ITS AGENTS TO VARIOUS CUSTOMERS?

4 A YES.

5 Q IS THAT DONE BY CHECK NUMBER?

6 A YES, IT IS.

7 Q HOW IS THAT RECORD KEPT?

8 A IT IS ORIGINALLY KEPT ON A COMPUTER TRACKING
9 SYSTEM IN RECORDING THE SALE, THE SOLD ITEMS.

10 Q NOW, WHEN OLYMPIC BANK SELLS THE TRAVELER'S
11 CHECKS TO THE CUSTOMER, WHAT DO THEY SEND BACK TO CHASE
12 MANHATTAN BANK?

13 A THEY SEND BACK A COPY OF THE PURCHASE AGREEMENT
14 AND THE MONEYS FOR THE CHECKS.

15 Q AND DO THEY SEND BACK THE CHECK NUMBERS?

16 A YES, THEY DO.

17 Q ALL RIGHT. SHOWING YOU EXHIBITS THAT WE HAVE
18 MARKED AS 48 AND 61, DO YOU RECOGNIZE THOSE, THE FORMS
19 DEPICTED BY THOSE EXHIBITS?

20 A YES, I DO.

21 Q WHAT ARE THEY?

22 A THOSE WOULD BE THE PURCHASE AGREEMENTS SUBMITTED
23 BY THE SELLING AGENT AND INCLUDING THE CHECK NUMBERS OF
24 CHECKS SOLD. AND IT SHOULD CONTAIN A SIGNATURE. IT DOESN'T
25 LOOK LIKE IT DOES, BUT AT LEAST THE PRINTED NAME AND THE
26 ADDRESS OF THE PURCHASER.

27 Q WHAT DOES THE BANK GET? WHAT DOES CHASE MANHATTAN
28 GET FROM OLYMPIC THAT REFLECTS THE NUMBERS THAT ARE ON THOSE

1 CHECKS?

2 A THE BANK WOULD NORMALLY GET ONE OF THE COPIES
3 HERE. PROBABLY IT WOULD BE THE BLUE COPY HERE.

4 Q AND WHAT DOES OLYMPIC BANK SEND TO CHASE THAT
5 HAS THE TRAVELER'S CHECK NUMBERS ON THEM?

6 A THE COPY OF THE PURCHASE AGREEMENT. I AM CALLING
7 IT A PURCHASE AGREEMENT. WELL, THAT IS WHAT IT IS.

8 Q SO A COPY IDENTICAL TO THAT, THAT YOU HAVE OR
9 A DUPLICATE ORIGINAL OF THAT, THAT YOU HAVE IN YOUR HAND
10 THAT IS MARKED PEOPLE'S 61 FOR IDENTIFICATION?

11 A PARDON ME?

12 Q CHASE MANHATTAN WOULD GET ANOTHER COPY OF THOSE
13 DOCUMENTS THAT ARE PEOPLE'S 61?

14 A TO MY KNOWLEDGE. I BELIEVE IT WOULD BE JUST
15 EITHER THIS ITEM OR THIS ITEM WOULD BE SUBMITTED BY THE
16 SALES AGENT TO CHASE MANHATTAN BANK.

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1 Q AND WHEN THE ITEM COMES BACK TO CHASE MANHATTAN,
2 DO YOU KEEP A RECORD OF THE --

3 A YES.

4 Q -- CHECKS THAT WERE SOLD?

5 A YES.

6 IS THERE SOMEONE AT CHASE MANHATTAN WHO IS
7 REQUIRED TO --

8 WELL, ARE THOSE RECORDS KEPT ON A COMPUTER?

9 A YES, THEY ARE.

10 Q IS THERE SOMEONE AT CHASE MANHATTAN WHO IS
11 REQUIRED TO INPUT THE NUMBERS ON THE COMPUTER OF THE CHECK
12 NUMBERS THAT WERE SOLD?

13 A YES, THAT WOULD BE DONE AT OUR OPERATIONS
14 CENTER.

15 Q WHERE IS THAT LOCATED?

16 A IN SYRACUSE, NEW YORK.

17 Q DID YOU BRING WITH YOU A COPY OF THAT COMPUTER
18 RECORD?

19 A ONLY A PORTION OF THAT COMPUTER RECORD.

20 Q WHAT PORTION OF THAT?

21 A THAT -- A PORTION THAT I RECEIVED FROM BARCLAYS
22 BANK.

23 Q HAS CHASE MANHATTAN BANK SUBSEQUENTLY SOLD
24 ITS TRAVELER'S CHECK DIVISION TO BARCLAYS?

25 A YES, IT HAS.

26 Q LET'S GO THROUGH THE WHOLE PROCEDURE.

27 ONCE YOU PUT IN THE CHECK NUMBERS INTO THE
28 COMPUTER OF CHECKS THAT WERE PURCHASED BY A CUSTOMER,

1 DO THEY REMAIN THERE?

2 A THE CHECK NUMBERS ARE PUT INTO THE COMPUTER
3 TRACKING SYSTEM WHEN THE CHECKS ARE SENT TO THE SALES
4 AGENT AND THE SALES AGENT ACKNOWLEDGES RECEIPT OF THE
5 CHECK. THEY ADD TO THAT DATA WHEN THE SALES AGENT SELLS
6 THE CHECK TO A CUSTOMER AND THEY ADD AGAIN TO THAT DATA
7 WHEN THE CUSTOMER, IN EFFECT, CASHES THE CHECKS AND CHASE
8 REIMBURSES THE SELLING AGENT FOR THOSE CHECKS OR THE ORIGINAL
9 ACCEPTOR FOR THOSE CHECKS.

10 Q OKAY. SO THAT IS THREE SEPARATE THINGS.

11 FIRST OF ALL, YOU KEEP A RECORD OF THE CHECKS
12 YOU SEND OUT TO OLYMPIC BANK, RIGHT?

13 A YES.

14 Q AND THEN WHEN OLYMPIC BANK OR ANY AGENT SELLS
15 THOSE TO A CUSTOMER, YOU ADD THAT ON THE RECORD?

16 A CORRECT.

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5A FOL.

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1 Q SO YOU KNOW A CUSTOMER HAS CERTAIN OF THOSE
2 CHECKS, CORRECT?

3 A YES, CORRECT.

4 Q THEN IF THE CUSTOMER CASHES THE CHECK, YOU
5 KEEP A RECORD OF THAT?

6 A CORRECT.

7 Q AND THE RECORDS THAT ARE KEPT OF IT, ONCE
8 THE CHECK IS CASHED BY THE CUSTOMER, THAT IS NOTED IN
9 THE COMPUTER; IS THAT RIGHT?

10 A THAT'S CORRECT.

11 Q AND IS THAT DATA KEPT IN THE COMPUTER?

12 A IF IT IS A NORMAL ITEM, IT IS KEPT FOR ROUGHLY
13 90 DAYS.

14 AND THAT MEANS WHEN I SAY NORMAL, I MEAN THERE
15 HAS BEEN NO REPORTED LOSS OR THEFT OF THE CHECK.

16 Q AND WHAT HAPPENS AFTER THE 90 DAYS?

17 A AFTER 90 DAYS, THAT DATA THAT IS IN THE COMPUTER
18 SECTION IS TRANSFERRED TO WHAT THEY CALL A PURGED INDEX,
19 ITS MICROFICHE SYSTEM AND THE COMPUTER DATA IS ERASED.

20 Q SO THE DATA THAT IS ON THE COMPUTER IS PUT
21 ON TO THE MICROFICHE AND YOU KEEP THE MICROFICHE?

22 A YES, THE MICROFICHE IS KEPT.

23 Q AND SO THAT GIVES YOU A PERMANENT RECORD OF
24 CHECKS THAT ARE CASHED?

25 A CORRECT.

26 Q AND IF THE CHECK IS NOT CASHED, IS THAT RECORD
27 KEPT IN THE COMPUTER UNTIL IT IS CASHED?

28 A YES, IT IS.

1 Q AND REFERRING TO THE CHECK NUMBERS THAT YOU
2 HAVE IN FRONT OF YOU ON THE DOCUMENTS 48 AND 61, DO YOU
3 HAVE SOME RECORDS THAT CONTAIN THOSE CHECK NUMBERS?

4 A YES, I HAVE.

5 Q AND WHAT ARE THOSE RECORDS?

6 A I HAVE A COPY OF THE COMPUTER PRINTOUT WHICH
7 I RECEIVED FROM BARCLAYS BANK INVOLVING 30 OF THE CHECKS
8 INVOLVED IN HERE.

9 Q AND THAT COMPUTER PRINTOUT THAT YOU RECEIVED
10 FROM BARCLAYS --

11 FIRST OF ALL, WHEN WAS THE SYSTEM SOLD TO
12 BARCLAYS BANK?

13 A ON APRIL 1, 1986.

14 Q AND WERE YOU REQUESTED BY ME TO GET THE PRINTOUT
15 FROM BARCLAYS BANK?

16 A YES, I WAS.

17 Q WAS THIS COMPUTER SYSTEM SOLD BASICALLY INTACT
18 TO BARCLAYS?

19 A I BELIEVE IT WAS.

20 I AM NOT SURE OF THE EXACT TRANSACTION.
21 THE BUSINESS WAS SOLD TO BARCLAYS AND THEY
22 ADAPTED OUR -- ADOPTED OUR COMPUTER TRACKING SYSTEM.

6- 1 Q SO THE RECORDS OF CHECKS THAT WERE SOLD WHEN IT
2 BELONGED TO CHASE WERE MAINTAINED BY BARCLAYS?

3 A CORRECT, YES.

4 Q AND DID YOU ALSO SEND SOME OF THOSE RECORDS TO
5 THE COURT, PURSUANT TO A SUBPOENA?

6 A YES, I DID.

7 MR. WAPNER: YOUR HONOR, I HAVE HERE AN ENVELOPE THAT
8 WAS SENT REGISTERED MAIL. AND FROM THAT, I AM WITHDRAWING
9 TWO PIECES OF PAPER, ONE THAT IS A COMPUTER PRINTOUT,
10 APPARENTLY HAVING SOME GREEN MARKINGS ON IT AND ANOTHER ONE
11 THAT IS A SMALLER COMPUTER PRINTOUT THAT HAS THE DATE
12 10/9/86 AND SAYS "OLYMPIC NATIONAL BANK" ON IT.

13 MAY THOSE BE PEOPLE'S NEXT IN ORDER, WHICH WOULD
14 BE 173?

15 THE COURT: 173. ALL RIGHT, SO MARKED.

16 MR. WAPNER: MAY I HAVE A MOMENT, YOUR HONOR?

17 THE COURT: YES.

18 (PAUSE.)

19 MR. BARENS: WE WOULD LIKE TO SEE THOSE BEFORE THEY
20 ARE HANDED TO THE WITNESS.

21 MR. WAPNER: I WOULD BE HAPPY TO. JUST A MOMENT.

22 Q MR. MILLIKEN, ARE THOSE TWO DOCUMENTS THAT I
23 HAVE MARKED AS 173, IDENTICAL TO THE DOCUMENTS YOU BROUGHT
24 WITH YOU?

25 A YES, THEY ARE.

26 Q AND WHILE COUNSEL IS LOOKING AT THOSE RECORDS,
27 WOULD YOU REFER TO YOUR COPIES OF THE DOCUMENTS. FIRST OF
28 ALL, WHAT ARE THOSE TWO DOCUMENTS THAT WE HAVE MARKED AS 173?

6- 1 A THE ONE DOCUMENT IS A PRINTOUT OF THE EXISTING
2 COMPUTER DATA RECORDING CHECKS THAT WERE TRANSFERRED TO
3 A SALES AGENT AND SOLD, THE AGENT BEING OLYMPIC NATIONAL
4 BANK.

5 THEY HAD NEVER BEEN PRESENTED FOR PAYMENT. SO
6 THAT DATA IS STILL EXISTING ON THE COMPUTER SYSTEM AT BARCLAYS.

7 Q AND WHAT IS THE SECOND DOCUMENT?

8 A THE OTHER IS A COPY OF APPARENTLY, THE MICROFICHE
9 RECORD OF THE PURGE REGISTER OF PAID CHECKS THAT WERE
10 INVOLVED IN THE ORIGINAL SALE.

11 Q NOW MANY CHECKS WERE INVOLVED IN THE ORIGINAL
12 SALE?

13 A THE ORIGINAL SALE WAS 150 CHECKS.

14 Q AND OF THOSE 150 CHECKS, HOW MANY WERE CASHED?

15 A 120.

16 Q HOW DO YOU KNOW THAT?

17 A THE PRINTOUT RECORD OF THE PURGE REGISTER SHOWS
18 THAT WE HAVE 120 CHECKS. IT LISTS THE EFFECTIVE DATE OF
19 PAYMENT, MEANING THAT CHASE HAD PAID THE ORIGINAL ACCEPTOR
20 FOR THE CHECKS.

21 MR. WAPNER: MAY THAT DOCUMENT BE MARKED AS 173-A,
22 YOUR HONOR?

23 THE COURT: SO MARKED.

24 Q BY MR. WAPNER: AND OF THOSE ORIGINAL 150 CHECKS,
25 WHAT IS ON THE PURGE RECORD THAT LETS YOU KNOW THAT THEY
26 WERE PAID?

27 A ONE OF THE LINES INDICATES THAT THE CHECK WAS
28 SOLD ON A CERTAIN DATE AND ALSO LISTED PAID ON A CERTAIN DATE.

6- 1 Q ALL RIGHT. THAT IS THE PURGE RECORD THAT YOU
2 HAVE REFERRED TO?

3 A YES.

4 Q ALL RIGHT. AND OF THE REMAINING 30 CHECKS,
5 WHAT HAPPENED TO THOSE?

6 A THOSE CHECKS, THE COMPUTER PRINTOUT SHOWS THAT
7 ON A DATE, THEY WERE ALL SOLD ON THE SAME DATE BUT THEY HAVE
8 NOT BEEN PAID BY CHASE MANHATTAN BANK. SO THEY ARE STILL
9 OUT THERE.

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1 Q AND WHAT IS THE DATE THAT IT REFLECTS THAT THEY
2 WERE SOLD?

3 A THE EFFECTIVE DATE --

4 THE COURT: YOU MEAN SOLD BY A SPECIFIC BANK?

5 MR. WAPNER: I THINK WE WILL GET TO THAT IN A MINUTE.

6 THE WITNESS: THE PRINTOUT RECORD SHOWS THE DATE
7 JUNE 5, '84.

8 Q BY MR. WAPNER: THE DATE JUNE 5, IS THAT THE DATE
9 THAT CHASE ACTUALLY RECEIVES THE MONEY FROM THE BANK THAT
10 SELLS THE CHECKS TO THE CUSTOMER?

11 A YES, THAT IS THE DATE THE MONEY IS RECEIVED FROM
12 THE SELLING AGENT.

13 Q SO IF THE SELLING AGENT SOLD THE CHECKS TO A
14 CUSTOMER ON MAY 31ST AND THE MONEY DIDN'T GET TO YOUR BANK
15 UNTIL JUNE 5TH, THE COMPUTER RECORD WOULD SHOW THE SOLD
16 DATE OF JUNE 5TH?

17 A JUNE 5TH, CORRECT.

18 Q DOES THE COMPUTER RECORD INDICATE THE VALUE OF
19 THOSE CHECKS OR THE AMOUNT OF EACH INDIVIDUAL CHECK?

20 A YES, IT DOES.

21 Q WHAT IS THAT?

22 A THE VALUE OF EACH CHECK -- WELL, THIS HAS IT
23 IN GROUPS OF TEN -- BUT THE VALUE OF EACH CHECK IS \$100.
24 IT IS A THOUSAND DOLLAR VALUE FOR EACH GROUP OF TEN.

25 Q OF THOSE \$3,000 OF CHECKS, HAVE THEY EVER BEEN
26 CASHED?

27 A NO.

28 Q IF THEY HAD BEEN CASHED ANYWHERE IN THE WORLD,

1 WOULD YOU RECORD REFLECT THAT?

2 A YES.

3 Q AND THEY HAVE NOT BEEN?

4 A THEY HAVE NOT BEEN.

5 Q AND THAT SECOND RECORD THAT YOU HAVE THAT REFERS
6 TO THE FACT THAT THEY HAVE NOT BEEN CASHED IS THE RECORD
7 THAT IS KEPT OF THE CHECKS THAT ARE SOLD BY THE BANK TO THE
8 CUSTOMER; IS THAT RIGHT?

9 A YES.

10 Q AND IF THEY HAD BEEN CASHED, WOULD THOSE CHECKS
11 BE LISTED ON THIS RECORD --

12 MR. WAPNER: WHICH I WOULD LIKE TO HAVE THE COURT
13 MARK AS 173-B?

14 THE COURT: SO MARKED.

15 Q BY MR. WAPNER: IF THEY HAD BEEN CASHED, WOULD
16 THEY SHOW UP ON THIS REGISTER, WHICH IS 173-B?

17 A YES, THEY WOULD.

18 Q ALL RIGHT. WOULD THEY SHOW UP IF THEY HAD
19 BEEN CASHED?

20 A THERE WOULD BE ANOTHER LINE ABOVE THE "SOLD LINE,"
21 WHICH WOULD HAVE A PAID LINE AND A DATE OF PAYMENT.

22 Q AND THAT IS NOT ON THERE?

23 A THAT IS NOT ON THERE.

24 Q WHEN IT SAYS SOLD, THAT IS SOLD BY -- WELL, THERE
25 ARE TWO THINGS ON THAT RECORD: ONE SAYS "SOLD" AND ONE
26 SAYS "S.L.C.C."; IS THAT RIGHT?

27 A "S.L.O.C." IS WHAT THAT SHOULD BE. THE PRINTOUT
28 IS A LITTLE UNCLEAR.

1 Q WHAT DOES THAT INDICATE?

2 A THAT MEANS SELLING LOCATION, THAT IS THE DATE THAT
3 THE CHECKS WERE RECEIVED AT BY THE SALES AGENT.

4 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

5 MR. BARENS: THANK YOU, YOUR HONOR.

6 CROSS-EXAMINATION

7
8 BY MR. BARENS:

9 Q GOOD MORNING, MR. MILLIKEN.

10 A GOOD MORNING.

11 Q MR. MILLIKEN, WE STARTED OUT DISCUSSING 150 CHECKS
12 OF WHICH A 120 SEEM TO BE CASHED OR SOLD OR SOMETHING DONE
13 WITH WHERE THEY WERE CASHED; IS THAT CORRECT?

14 A RIGHT.

15 Q AND THEN THERE ARE 30 CHECKS THAT HAVE NOT BEEN
16 CASHED?

17 A HAVE NOT BEEN PRESENTED FOR PAYMENT, CORRECT.

18 Q RIGHT.

19 HAVE YOU EVER GOTTEN A REPORT THAT THEY WERE
20 STOLEN, LOST OR MISSING?

21 A NO.

22 Q SO THERE HAS BEEN NO CLAIM MADE ON THOSE CHECKS
23 AS BEING ANYTHING LIKE THE NORMAL STUFF THAT COMES TO YOUR
24 ATTENTION WHEN THERE ARE CHECKS OUT THERE OR SOMEONE SAYS
25 THEY ARE STOLEN OR FORGED OR SOMETHING LIKE THAT, CORRECT,
26 SIR?

27 A IT WOULD COME TO MY ATTENTION IF THEY HAD BEEN
28 REPORTED STOLEN, YES, STOLEN OR LOST.

1 Q ALL RIGHT, SIR. YOU HAVE RECEIVED NO NOTIFICATION
2 ABOUT THOSE 30 CHECKS OF ANY KIND, HAVE YOU?

3 A YOU SAY "NOTIFICATION"? NO, ONLY THAT I HAVE
4 INFORMATION FROM BARCLAYS THAT THEY HAVE NOT BEEN PRESENTED
5 FOR PAYMENT. THAT'S ALL.

6 Q OKAY. IT WAS THAT NEGATIVE TYPE INFORMATION
7 THAT I WAS LOOKING FOR.

8 A YES.

9 Q SIR, I AM TRYING TO DETERMINE FROM PEOPLE'S
10 173-A -- WELL, YOU HAVE A LOOK AT IT THERE. IT IS THAT
11 LONG, COMPUTERIZED THING THAT LOOKS LIKE A VARIETY OF
12 SOCIAL SECURITY NUMBERS.

13 CAN YOU TELL ME WHAT DATE FROM THAT SPECIFICALLY
14 THAT THE CUSTOMER ACTUALLY COMES INTO RECEIPT, PHYSICAL
15 POSSESSION OF THE TRAVELER'S CHECKS?

16 A THIS WOULD NOT REFLECT THE ACTUAL DATE THAT
17 THE CUSTOMER PURCHASED THE CHECK UNLESS IT WAS EXACTLY
18 THE SAME DAY THAT THE MONIES WERE RECEIVED AT OUR OPERATIONS
19 CENTER.

20 Q RIGHT. I NOTICE A BUNCH OF DATES THROUGHOUT
21 THERE, WHERE THERE IS SOME HIGHLIGHTING. I DON'T KNOW
22 IF YOUR COPY HAS THE HIGHLIGHTING. MR. WAPNER, CAN I
23 SEE YOUR COPY?

24 A YES. THIS HAS HIGHLIGHTING.

25 Q AND DID YOU DO THAT GREEN HIGHLIGHTING?

26 A NO, I DID NOT.

27 Q WELL, IN ANY EVENT, IS THAT GREEN HIGHLIGHT --
28 IT SEEMS TO HAVE A 6/7 NOTE SOMEWHERE IN THE MIDDLE, DOES

1 IT NOT, SIR?

2 IF I COULD APPROACH, PERHAPS I COULD FOCUS
3 ON THAT, YOUR HONOR.

4 THE COURT: YES.

5 Q BY MR. BARENS: IT APPEARS IN THE DEAD CENTER
6 OF THE PAGE. IT SAYS "6/7/84." WHAT IS THAT DATE?

7 A YES. THAT IS THE EFFECTIVE DATE. THAT WOULD
8 ALSO BE THE DATE THAT THE PAYMENT WAS MADE, WHICH IS DUPLICATED
9 OVER HERE, 6/7/84.

10 Q SO THE 6/7 DATE, IS THE DATE THAT YOU FOLKS
11 GET THE PAYMENT?

12 A CORRECT.

13 Q IS SOMETHING HAPPENING ON THE OTHER END OF
14 THE TRANSACTION ON 6/7?

15 A NOT ON 6/7 AT THAT POINT. THE MONEY WILL
16 BE THEN PAID BACK TO THE ORIGINAL PURCHASER BY CHASE.

17 Q SORRY, SIR. I DON'T UNDERSTAND WHAT YOU MEAN
18 BY "PAID BACK TO THE ORIGINAL PURCHASER."

19 WHO IS THE ORIGINAL PURCHASER YOU ARE REFERRING
20 TO?

21 A NO, THE CHECK ACCEPTOR.

22 Q LIKE IF IT WAS CASHED IN A RETAIL OUTLET,
23 YOU ARE TALKING ABOUT THE RETAILER AT THAT POINT?

24 A YES, CORRECT.

25 Q OKAY. SO I UNDERSTAND YOU CORRECTLY, THEN
26 THE PURCHASE BY THE CUSTOMER WOULD BE, SAY, ON 6/5 OR
27 6/6? IN THIS INSTANCE, I MEAN, THE CUSTOMER WHO BUYS
28 THE TRAVELER'S CHECK THEN, THE 6/7 WOULD BE THE DATE --

8-3

1 LET'S CALL IT THE DATE IT IS USED OR THE DAY AFTER IT
2 IS USED.

3 A NO. THE 6/7 DATE IS THE DATE THAT THE CHECK
4 IS RECEIVED AT OUR OPERATIONS CENTER FOR PAYMENT.

5 Q RIGHT.

6 A NOW, THAT IS DONE THROUGH THE FEDERAL RESERVE
7 SYSTEM. THE CHECK WOULD BE INPUTTED INTO THAT SYSTEM
8 WHERE THE CHECK ACCEPTOR, WHERE THE CUSTOMER HAD CASHED
9 THE CHECK AT THE JEWELRY STORE, FOR EXAMPLE, AND THEN
10 TURNED IT INTO A BANK FOR DEPOSIT.

11 THE BANK WOULD SEND THE CHECK THROUGH THE
12 FEDERAL RESERVE SYSTEM TO CHASE MANHATTAN BANK.

13 Q OKAY. CAN WE TELL FROM THIS COMPUTER PRINTOUT
14 WHEN THE CHECKS WERE USED BY THE CUSTOMER THAT BOUGHT
15 THOSE CHECKS?

16 A NOT THE EXACT DATE THAT THE CHECKS WERE CASHED.
17 THE ONLY DATE IS THE DATE THAT THE CHECKS WERE RECEIVED
18 AT SYRACUSE OR AT OUR OPERATIONS CENTER.

19 Q ALL RIGHT, SIR. THE TYPE OF CHECK THAT WE
20 HAVE HERE IS A CHASE MANHATTAN CHECK AND I PRESUME THAT
21 WOULD BE CASHABLE OR REDEEMABLE AT ANY PLACE IN THE WORLD?

22 A GENERALLY SPEAKING, YES.

23 Q WELL, PERHAPS WITH A FEW EXCEPTIONS THAT I
24 CAN HARDLY EVEN THINK OF?

25 A GENERALLY SPEAKING, YES.

26 Q ALL RIGHT. IT IS YOUR EXPERIENCE THAT THESE
27 ARE USED AS MUCH INTERNATIONALLY AS IN THE UNITED STATES?

28 A YES, THEY ARE. THEY ARE FREQUENTLY USED

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INTERNATIONALLY.

Q DO THESE TRAVELER'S CHECKS HAVE AN EXPIRATION DATE?

A NO, THEY DO NOT.

Q THEY DON'T GET STALE, DO THEY?

A THEY DON'T GET STALE.

Q THEY WOULD BE -- IF I WERE TO STORE THOSE IN A SAFETY DEPOSIT BOX, FOR INSTANCE, IF THEY WERE THERE IN FIVE YEARS, THEY WOULD BE AS GOOD FIVE YEARS LATER, WOULD THEY NOT, AS ON THE DAY I RECEIVED THEM?

A THAT'S CORRECT.

9 FC.

9-1

1 Q NOW, YOU WERE ASKED TO CHECK CERTAIN MATERIALS
2 BEFORE COMING HERE TODAY.

3 I WAS CURIOUS TO SEE IF YOU WERE ASKED TO
4 CHECK FOR ANY TRAVELER'S CHECKS PURCHASED BY PRESLEY REED?

5 A NO, I WAS NOT.

6 Q OR R. MICHAEL WEATHERBY?

7 A I WAS NOT.

8 Q RON ROTHSCHILD?

9 A YOU ARE GIVING ME NAMES. WE CAN ONLY -- WHEN
10 WE WERE IN THE TRAVELER'S CHECK BUSINESS, WE WOULD CHECK
11 BY THE CHECK NUMBERS, NOT BY NAMES.

12 Q OH, I SEE.

13 SO YOU WERE ONLY LIMITED IN YOUR INQUIRY HERE
14 JUST TO A SPECIFIC CHECK NUMBER YOU WERE DIRECTED TO FERRET
15 OUT SOMEHOW?

16 A THE CHECK NUMBERS WE WERE ASKED TO TRACK,
17 YES.

18 Q ARE THE VENDORS THAT SELL THE CHECKS REQUIRED
19 TO FILE C.T.R.'S FOR PURCHASES OVER \$10,000?

20 A YES, THEY ARE.

21 Q DO YOU FOLKS RECEIVE ANYTHING LIKE THAT?

22 A NO, THAT IS NOT SENT TO US.

23 Q IT IS OF NO CONCERN TO YOUR INSTITUTION?

24 A IT WOULD BE OF CONCERN, IT IS A MATTER OF
25 LAW.

26 WE ARE NOT DIRECTLY INVOLVED IN THAT.

27 Q ALL RIGHT, SIR, THUS, IT IS MY UNDERSTANDING
28 THAT IF I WERE LOOKING FOR RECORDS THROUGH YOUR FACILITY,

1 I COULDN'T FIND ANYTHING IF I JUST HAD WHAT I BELIEVED
2 TO BE THE NAME OF THE PURCHASER, UNLESS I HAD A DESCRIPTIVE
3 NUMBER ON WHAT YOU ISSUED TO THE VENDORS, I AM AT AN IMPASSE.

4 A ON JUST A NAME BASIS, I DON'T BELIEVE IT WOULD
5 BE POSSIBLE FOR US TO DETERMINE MUCH ABOUT CHECKS PURCHASED.

6 MR. BARENS: THANK YOU, SIR.

7 THE COURT: ANY REDIRECT?

8 MR. WAPNER: JUST BRIEFLY.

9
10 REDIRECT EXAMINATION

11 BY MR. WAPNER:

12 Q THE RECORDS THAT YOU RAN SHOWING \$3,000
13 OUTSTANDING, WHEN WAS THAT DONE?

14 A THE DATE HERE IS REFLECTED AS SOLD ON JUNE
15 5, 1984.

16 Q OKAY, MAYBE I DIDN'T ASK YOU A GOOD QUESTION.
17 WHAT IS THE DATE OF -- THAT THAT LAST COMPUTER
18 PRINTOUT WAS DONE?

19 A OH, I AM SORRY.

20 THAT WOULD HAVE BEEN, IT WAS THE DATE THAT
21 I HAVE SENT -- IT WOULD HAVE BEEN NOVEMBER 17, 1986.

22 Q ALL RIGHT. SO IF THE CHECKS HAD BEEN CASHED
23 BETWEEN NOVEMBER 17, '86 AND TODAY, IT WOULDN'T BE REFLECTED
24 ON THAT?

25 A IT WOULD NOT BE REFLECTED ON THIS, NO.

26 Q AND IS THERE SOME WAY OF YOUR BEING ABLE TO
27 CHECK THAT THROUGH BARCLAYS?

28 A I COULD CHECK THAT THROUGH BARCLAYS.

1 Q YOU COULD PROBABLY EVEN DO THAT TELEPHONICALLY?

2 A I PROBABLY COULD.

3 Q SINCE WE HAVEN'T MADE YOUR PLANE RESERVATION
4 NOW UNTIL TOMORROW, YOU CAN DO THAT FOR US PROBABLY TODAY?

5 A YES.

6 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

7 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU
8 MAY STEP DOWN.

9 MR. WAPNER: YOUR HONOR, MAY WE APPROACH THE BENCH
10 BRIEFLY?

11 THE COURT: YES.

12 (WHEREUPON, THE FOLLOWING PROCEEDINGS

13 WERE HELD AT THE BENCH:)

14 THE COURT: ALL RIGHT.

15 MR. WAPNER: MY NEXT WITNESS IS FROM THE MISSING
16 PERSONS SECTION OF THE DEPARTMENT OF JUSTICE. HE BROUGHT
17 SOME RECORDS TO MY ATTENTION THIS MORNING THAT I MENTIONED
18 TO COUNSEL AND BASED ON THAT, I HAVE ASKED FOR A STIPULATION
19 BUT COUNSEL HASN'T HAD A CHANCE TO TALK TO HIM OR TO LOOK
20 AT THE RECORDS AND I HATE TO DO THIS, BUT I WONDER IF
21 WE MIGHT JUST HAVE A FEW MINUTES TO SEE IF WE CAN GET
22 THAT IRONED OUT.

23 MR. BARENS: YOUR HONOR, I AM INCLINED, OF COURSE,
24 TO COOPERATE ON A STIPULATION. IT MIGHT SAVE US A LOT
25 OF TIME. I JUST DON'T KNOW WHAT WE ARE TALKING ABOUT.

26 THE COURT: WHAT IS YOUR OFFER OF PROOF ON THAT,
27 ON WHAT HE IS GOING TO TESTIFY TO?

28 MR. WAPNER: WELL, HE IS GOING TO TESTIFY ABOUT

1 RUNNING VARIOUS CHECKS OF RECORD, INCLUDING AMONG OTHER
2 THINGS, DRIVER'S LICENSE RECORDS THAT MIGHT SHOW ANY ACTIVITY
3 BY MR. LEVIN AND IT TURNS OUT THAT THERE WAS A MOTORCYCLE
4 THAT WAS REGISTERED TO MR. LEVIN AND SOMEONE WAS ARRESTED
5 DRIVING THAT MOTORCYCLE AT THE END OF 1986, I BELIEVE,
6 AND WAS ARRESTED BY THE BEVERLY HILLS POLICE DEPARTMENT
7 AND THEY THOUGHT MAYBE HE HAD STOLEN IT FROM LEVIN, BUT
8 THAT SINCE LEVIN WAS DEAD IN THEIR OPINION AND THAT HE
9 COULDN'T REPORT IT STOLEN, SO THEY ASKED HIM ABOUT IT
10 AND HE SAID, "NO, I GOT IT FROM MY UNCLE, LEN MARMOR."

11 SO LEN MARMOR CAME DOWN AND BROUGHT A PINK
12 SLIP AND HE SAID, "I GOT THIS MOTORCYCLE FROM LEVIN," SINCE
13 BY INFERENCE MARMOR HAS TESTIFIED HE NEVER HAS SEEN OR
14 HEARD FROM LEVIN SINCE JUNE 6TH, OBVIOUSLY, HE GOT IT
15 FROM LEVIN BEFORE THAT DATE.

16 BUT COUNSEL HASN'T HAD THE OPPORTUNITY TO
17 SEE THOSE DOCUMENTS THAT WOULD INDICATE THAT IT WAS MARMOR'S
18 MOTORCYCLE.

19 SO RATHER THAN PUTTING THIS GUY ON THE STAND
20 AND HAVING TO GO THROUGH THIS WHOLE BUSINESS AND THEN
21 GET MARMOR IN HERE, I THOUGHT IF COUNSEL COULD HAVE A
22 FEW MINUTES TO LOOK AT IT WE COULD, HOPEFULLY, WORK OUT
23 A STIPULATION SO WE DON'T HAVE TO GO THROUGH THAT RIGAMAROLE.

24 THE COURT: HAVE YOU SHOWN HIM THE RECORDS?

25 MR. WAPNER: I HAVEN'T REALLY HAD A CHANCE. DETECTIVE
26 ZOELLER HAS THE XEROX COPY OF THE PINK SLIP.

27 THE COURT: HAVE YOU GOT ANY OTHER WITNESS IN THE
28 MEANTIME AND WHEN YOU FINISH WITH THAT WITNESS HE WILL

1 EXAMINE THE RECORDS AND THEN WE CAN GO ON WITH IT.

2 MR. WAPNER: THE OTHER WITNESSES THAT I HAVE HAVE
3 TO DO WITH THIS BUSINESS IN NEW YORK THAT THEY WANT TO
4 HAVE THIS MOTION ON.

5 THE COURT: THE MOTION ON THE MOTION PAPERS THAT
6 THEY MADE, YOU MEAN?

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1 THE COURT: THAT CODE SECTION WHICH YOU CALLED MY
2 ATTENTION TO, SAYS IT IS WITHIN THE DISCRETION OF THE COURT,
3 THE ORDER OF PROOF.

4 I WILL PERMIT IT IN, SUBJECT TO CONNECTION AND
5 THEN THE MOTION, IF YOU ARE GOING TO OBJECT TO IT --

6 MR. BARENS: YOUR HONOR, MAY THE DEFENSE HAVE A PROPER
7 OPPORTUNITY TO ARGUE THE MOTION?

8 THE COURT: WELL, I DON'T THINK IT IS NECESSARY TO
9 ARGUE THE MOTION. I READ YOUR PAPERS. I THINK UNDER THE
10 CIRCUMSTANCES, I AM FAMILIAR WITH THE TESTIMONY THAT THEY
11 HOPE TO PROVE WITH THESE PEOPLE IN NEW YORK THAT WILL BE
12 SUBJECT TO CONNECTION.

13 MR. BARENS: YOUR HONOR, WE HAVE SERIOUS DOUBTS ABOUT
14 THAT WHOLE CONNECTION BUSINESS, WHICH IS THE SUBJECT OF THE
15 MOTION.

16 THE COURT: THEN YOU CAN ARGUE THAT TO THE JURY. BUT
17 I THINK THE ORDER OF PROOF IS THAT THEY HAVE A RIGHT, IF
18 THEY WANT TO TAKE THE WITNESS OUT OF TURN AND HOPE THAT
19 THEY CAN SHOW THE CONNECTION BETWEEN THE TWO.

20 THAT WILL BE THE OFFER OF PROOF, THAT YOU WILL
21 SHOW THAT CONNECTION WITH OTHER WITNESSES, WOULD YOU?

22 MR. WAPNER: OF COURSE.

23 THE COURT: I WILL PERMIT YOU TO DO SO.

24 MR. WAPNER: MAY I HAVE A MOMENT WITH COUNSEL?

25 (PAUSE.)

26 MR. BARENS: YOUR HONOR, IF YOU JUST GIVE US FIVE
27 OR TEN MINUTES, WE COULD DO IT AND BE DONE WITH IT.

28 THE COURT: GO AHEAD.

10-2
1 MR. BARENS: YOUR HONOR, COULD I JUST RESERVE A MOMENT
2 TO ADDRESS YOUR HONOR? I BELIEVE THAT THERE IS MORE THAN
3 ONE CODE SECTION THAT WAS REFERENCED IN THE MOTION BEFORE
4 THE COURT THIS MORNING, THAT WE ARE SPECIFICALLY RELYING
5 UPON.

6 THE COURT: WHICH ARE THE OTHER CODE SECTIONS?

7 MR. BARENS: YOUR HONOR, THIS IS A LAW AND MOTION
8 MATTER. I WOULD LIKE TO DEFER TO MR. CHIER, WHO HAD THE SOLE
9 RESPONSIBILITY FOR THE PREPARATION AND ARGUMENT OF THE MOTION.

10 THE COURT: HE IS THE ONE WHO PREPARED THE MOTION?

11 MR. WAPNER: IF WE COULD JUST TAKE FIVE MINUTES NOW
12 TO HAVE THIS THING WORKED OUT WITH THE GUY FROM SACRAMENTO,
13 IT WILL JUST TAKE FIVE MINUTES.

14 THE COURT: ALL RIGHT. DO THAT FIRST. THEN I WILL
15 HEAR ARGUMENT FROM YOU AND YOUR ASSISTANT, HERE.

16 MR. BARENS: I WOULD APPRECIATE THE COURTESY.

17 MR. WAPNER: MAYBE WE COULD DO THE ARGUMENT AT 1:30.

18 MR. BARENS: THAT'S RIGHT.

19 (THE FOLLOWING PROCEEDINGS WERE

20 HELD IN OPEN COURT IN THE PRESENCE

21 OF THE JURY:)

22 THE COURT: LADIES AND GENTLEMEN OF THE JURY, COUNSEL
23 HAVE TO GO OVER SOME DOCUMENTS IN ADVANCE OF HAVING ANOTHER
24 WITNESS TESTIFY. THAT ONLY TAKES ABOUT FIVE OR TEN MINUTES.
25 IF YOU WOULD LIKE TO TAKE A SHORT RECESS AT THIS TIME,
26 WE WILL GET YOU BACK HERE SAY, IN TEN MINUTES AND WE CAN
27 RESUME THEN. THANK YOU.

28 (RECESS.)

1 THE COURT: ALL RIGHT, CALL YOUR NEXT WITNESS.

2 MR. WAPNER: YES, PAUL PANE.

3
4 PAUL PANE,

5 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
6 AS FOLLOWS:

7 THE CLERK: WOULD YOU RAISE YOUR RIGHT HAND TO BE
8 SWORN, PLEASE.

9 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU MAY
10 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
11 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP
12 YOU GOD?

13 THE WITNESS: YES.

14 THE CLERK: PLEASE BE SEATED AT THE WITNESS STAND.

15 NOW IF YOU WOULD STATE YOUR NAME FOR THE RECORD.

16 THE WITNESS: MY NAME IS PAUL PANE, P-A-N-E

17
18 DIRECT EXAMINATION

19 BY MR. WAPNER:

20 Q MR. PANE, BY WHOM ARE YOU EMPLOYED?

21 A I AM EMPLOYED BY THE STATE OF CALIFORNIA,
22 DEPARTMENT OF JUSTICE.

23 Q WHAT PART OF THE DEPARTMENT OF JUSTICE DO YOU
24 WORK IN?

25 A I WORK IN THE MISSING, UNIDENTIFIED PERSONS
26 UNIT.

27 Q WHAT DO YOU DO THERE?

28 A PRIMARILY, I AM RESPONSIBLE FOR THE DENTAL

IDENTIFICATION PORTION OF THE PROGRAM AND THAT IS OBTAINING
DENTAL RECORDS ON MISSING PERSONS AND UNIDENTIFIED DECEASED,
MAKING THE COMPARISONS AND COMING UP WITH AN IDENTIFICATION
FOR LAW ENFORCEMENT.

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12 ' 1 Q WHAT DOES THE MISSING PERSONS SECTION DO GENERALLY?
2 TALK A LITTLE BIT SLOWER AND TALK TO THIS LADY IN THE BACK
3 CORNER IN THE BLUE SUIT.

4 A OKAY. OUR PRIMARY RESPONSIBILITY IS TO BE AN
5 ADDITIONAL TOOL FOR LAW ENFORCEMENT, TO ASSIST THEM IN THE
6 INVESTIGATION OF MISSING PERSONS. THAT IS OUR PRIMARY
7 RESPONSIBILITY.

8 Q AND HOW DO YOU GO ABOUT ASSISTING THEM IN THE
9 INVESTIGATION OF MISSING PERSONS?

10 A ONCE WE RECEIVE A REPORT FROM THE LAW ENFORCEMENT
11 AGENCY, AN INDIVIDUAL IS REPORTED MISSING, LAW ENFORCEMENT
12 IS MANDATED BY LAW TO SUBMIT THOSE REPORTS TO US, ALONG WITH
13 THE DENTAL RECORDS.

14 Q WE THEN GO AHEAD AND INQUIRE INTO NUMEROUS
15 FILES TO TRY TO ASCERTAIN SOME SORT OF ACTIVITY AFTER THE
16 DATE OF MISSING.

17 IF THERE IS NO ACTIVITY AFTER THE DATE OF MISSING,
18 THEN WE GO AHEAD AND WE PUT STOP NOTICES IN THOSE PARTICULAR
19 FILES.

20 Q ALL RIGHT. NOW, DID YOU GET A REPORT OF A MISSING
21 PERSON FROM THE BEVERLY HILLS POLICE DEPARTMENT REGARDING
22 THE PERSON NAMED RONALD GEORGE LEVIN?

23 A YES, I DID.

24 Q ALL RIGHT. AND WHEN DID YOU RECEIVE THAT?

25 A I RECEIVED THAT REPORT APPROXIMATELY SOMETIME
26 IN JULY 1984.

27 Q DO YOU HAVE THAT REPORT WITH YOU?

28 A YES, I DO.

1 Q AND DOES THAT REPORT INDICATE WHEN IT WAS THAT
2 YOU RECEIVED THE REPORT FROM THE BEVERLY HILLS POLICE
3 DEPARTMENT?

4 A IT HAS A DATE ON IT, CORRECT.

5 Q WHAT IS THAT DATE?

6 A WE HAVE THE DATE IT WAS STAMPED. IT IS DATE STAMPED
7 7/17 OF '84.

8 Q DOES IT HAVE THE DATE ON THE REPORT THERE WHEN THE
9 BEVERLY HILLS POLICE DEPARTMENT MADE THE REPORT?

10 A IT IS DATED 6/22/84.

11 Q WHY DID IT TAKE SO LONG TO GET TO YOU, IF YOU
12 KNOW?

13 A I REALLY DON'T THINK IT IS THAT LONG. THEY ARE
14 MANDATED BY LAW TO SUBMIT A REPORT TO US AFTER THE INDIVIDUAL
15 HAS BEEN MISSING FOR APPROXIMATELY 45 DAYS.

16 Q AND ONCE THAT REPORT WAS RECEIVED BY YOUR SECTION,
17 WHAT WAS DONE WITH IT?

18 A ONCE WE RECEIVED IT INTO OUR SECTION, WE MAKE
19 WHAT WE CALL A CURSORY SEARCH.

20 NOW, THAT ENTAILS TAKING THE INFORMATION THAT
21 WAS SUBMITTED AND UTILIZING THE PHYSICAL DESCRIPTION OF THE
22 MISSING PERSON, MAKING COMPARISONS AGAINST THE UNIDENTIFIED
23 DECEASED THAT WE HAVE IN OUR FILE, THE REPORTS OF UNIDENTIFIED
24 DECEASED.

25 Q WHEN YOU SAY A "CURSORY SEARCH", WHAT DOES THAT
26 MEAN?

27 A THAT MEANS TAKING THE PHYSICAL DESCRIPTION AND
28 THE DATE OF MISSING AND LOOKING FOR ANY UNIDENTIFIED DECEASED

1 PEOPLE FROM THAT DATE, MISSING THAT WOULD HAVE MATCHED THE
2 PHYSICAL DESCRIPTION OF MR. LEVIN, HERE.

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1 Q WHAT WAS THE PHYSICAL DESCRIPTION ON THE REPORT
2 FROM THE BEVERLY HILLS POLICE DEPARTMENT?

3 A IT SAID SIX-FOOT TWO, 170 POUNDS. GRAY HAIR.
4 BLUE EYES. WITH A DATE OF BIRTH SHOWING AN AGE OF 42 YEARS
5 OLD. WHITE MALE.

6 Q AND DOES THE DEPARTMENT OF JUSTICE KEEP FILES ON
7 PEOPLE WHO ARE DECEASED WHOSE BODIES HAVE NOT BEEN IDENTIFIED?

8 A YES. THE CORONERS ARE MANDATED BY LAW TO SUBMIT
9 THE DENTAL RECORDS AND OTHER INFORMATION ON ALL OF THEIR
10 UNIDENTIFIED DECEASED WHENEVER THEY HAVE EXHAUSTED ALL
11 ATTEMPTS TO IDENTIFY THOSE INDIVIDUALS.

12 Q DID YOU MATCH THE PERSON IDENTIFIED AS MR. LEVIN
13 IN THE MISSING PERSON'S REPORT AGAINST ANY DECEASED BODIES
14 THAT HAD BEEN RECOVERED BUT NOT IDENTIFIED?

15 A NO, THERE HAS BEEN NO MATCH TO THIS DATE.

16 Q AFTER THE CURSORY SEARCH WAS DONE, WHAT IS THE
17 NEXT THING THAT IS DONE?

18 A THEN WE GO THROUGH A PROCESS WHICH WE CALL
19 INDEXING. THIS IS WHERE WE GO AHEAD AND CHECK ALL OF THE
20 FILES THAT ARE AVAILABLE TO THE DEPARTMENT OF JUSTICE TO
21 TRY TO LOCATE SOME SORT OF ACTIVITY AFTER THE DATE OF MISSING.

22 Q IN DOING THAT INDEXING, WHAT IS THE FIRST THING
23 THAT IS DONE?

24 A ONE OF THE FIRST THINGS DONE IS WE DO INQUIRE
25 INTO THE DEPARTMENT OF MOTOR VEHICLE FILES TO CHECK TO SEE
26 IF THE INDIVIDUAL HAS A DRIVER'S LICENSE, TO SEE IF THERE IS
27 ANY ACTIVITY, ANY VIOLATION, INFRACTIONS AFTER THE DATE OF
28 MISSING.

1 WE DO GO AHEAD AND CHECK OUR CRIMINAL HISTORY
2 RECORDS TO SEE IF THE INDIVIDUAL DOES HAVE A FOLDER ON FILE
3 WITH OUR DEPARTMENT AND TRY TO SEE IF THERE IS ANY INQUIRIES
4 AFTER THE DATE OF MISSING ON HIM, SEE IF THERE IS ANY
5 ARRESTS ON HIM AFTER THE DATE OF MISSING.

6 Q LET'S GO STEP BY STEP.

7 THE FIRST THING YOU MENTIONED WAS D.M.V. RECORDS;
8 IS THAT RIGHT?

9 A THAT'S CORRECT.

10 Q AND WERE THEY CHECKED IN THIS CASE?

11 A YES, THEY WERE.

12 Q WHEN WAS THAT INITIALLY DONE IN RELATION TO THE
13 JULY 17 DATE WHEN YOU RECEIVED A REPORT?

14 A PROBABLY ON THAT DATE.

15 Q AND IS THERE --

16 A I HAVE A DOCUMENT IN HERE WHERE IT SAYS 7-18 OF '84
17 THAT WAS DONE.

18 Q AND WHAT WAS DISCOVERED AT THAT TIME?

19 A THAT HE DID HAVE A DRIVER'S LICENSE NUMBER AND
20 HE DID HAVE A CRIMINAL HISTORY RECORD WITH OUR DEPARTMENT.

21 Q AND AS FAR AS THE DRIVER'S LICENSE NUMBER, WHAT
22 DO YOU CHECK AT THAT POINT?

23 A WE TRY TO GO AHEAD AND CHECK AND SEE WHAT TYPE
24 OF VEHICLE HE OWNS, IF IT HAS BEEN REGISTERED AND WHAT DATE,
25 ANY VEHICLE VIOLATIONS, INFRACTIONS.

26 WE ARE TRYING TO SEE SOME SORT OF MOVEMENT IN
27 ANY OF THOSE RECORDS AFTER THE DATE OF MISSING.

28 Q DOES THE REPORT GIVE YOU THE DATE THAT YOU ARE

1 REFERRING TO AS THE DATE OF MISSING?

2 A YES, IT DOES.

3 Q WHAT IS THAT DATE?

4 A THE DATE HERE, IT SAYS "6-6 OF '84." JUNE 6 OF '84.

5 Q SO WHEN YOU DO THE FIRST CHECK TO LOOK FOR
6 THOSE PEOPLE, YOU ARE LOOKING FOR WHETHER OR NOT YOU CAN TURN
7 UP ANYTHING BETWEEN 6-6-84 AND IN THIS CASE, JULY 18 OF '84;
8 IS THAT RIGHT?

9 A THAT'S CORRECT.

10 Q AND WHEN YOU DID THE DEPARTMENT OF MOTOR VEHICLES
11 CHECK, WHAT KIND OF A CHECK IS THAT, WHAT WOULD YOU FIND OUT
12 FROM THE DEPARTMENT OF MOTOR VEHICLES?

13 A BY AN INQUIRY, WE WOULD INQUIRE BY NAME TO TRY
14 TO OBTAIN A DRIVER'S LICENSE. IF THAT IS FOUND, THEN WE
15 INQUIRE INTO THE DRIVER'S LICENSE NUMBER TO GET ANY INFRACTIONS,
16 CURRENT ADDRESS, ANYTHING THAT WOULD GO ON THE DRIVER'S
17 LICENSE RECORD ITSELF.

18 Q SO FOR EXAMPLE, IF A PERSON BY THE NAME OF
19 RONALD LEVIN WITH THE DRIVER'S LICENSE THAT IS CONTAINED
20 ON THE MISSING PERSON'S REPORT, HAD GOTTEN A TICKET BETWEEN
21 JUNE 6 AND JULY 18, THAT WOULD HAVE COME UP ON YOUR
22 RECORD?

23 A IT VERY POSSIBLY COULD HAVE, YES.

24 Q AND DID IT?

25 A NO, THERE WAS NO ACTIVITY.

26

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28

1 Q AND IF HE REGISTERED OR REGISTERED THE VEHICLE
2 BETWEEN JUNE 6 AND JULY THE 18TH, THAT WOULD HAVE COME
3 UP ON YOUR RECORDS?

4 A YES. THAT IS ONE OF THE INQUIRIES WE MAKE.

5 Q WAS THERE ANY ACTIVITY?

6 A NO.

7 Q AND AND WAS THERE ANY OTHER D.M.V. INQUIRY MADE
8 OF THE D.M.V. FILES AT THAT PARTICULAR TIME?

9 A AT THAT PARTICULAR TIME, ACCORDING TO MY RECORDS,
10 NO.

11 Q AND WHAT IS THE NEXT THING THAT WAS DONE AFTER
12 CHECKING THE D.M.V. RECORDS?

13 A THEN WE GO AHEAD AND CHECK OUR TIME RECORDS
14 TO SEE IF ONE HAS BEEN ESTABLISHED.

15 Q IF HE HAS EVER BEEN ARRESTED BEFORE?

16 A YES.

17 Q IN THIS CASE, WHAT DID YOU FIND OUT?

18 A I FOUND OUT HE DID HAVE A CRIME RECORD.

19 Q WHEN A PERSON GETS A CRIME RECORD, ARE THEY
20 ASSIGNED A NUMBER?

21 A THEY ARE ASSIGNED WHAT WE CALL A C.I.I. RECORD
22 NUMBER.

23 Q WHAT IS THAT?

24 A IT IS A NUMBER THAT IS IDENTIFIED TO A FOLDER,
25 TO A PARTICULAR INDIVIDUAL.

26 Q WHAT DOES C.I.I. STAND FOR?

27 A CRIMINAL IDENTIFICATION AND INFORMATION.

28 Q AND WHAT IS THE SIGNIFICANCE OF THAT NUMBER?

1 A THAT NUMBER IS THE MEANS BY WHICH YOU CAN
2 GO AHEAD AND HAVE A FOLDER PULLED. IT IS AN INDEXING
3 NUMBER FOR OUR DEPARTMENT.

4 Q HOW IS THAT INDEX DONE? IS IT BY NAME ONLY
5 AND NUMBER OR --

6 A IT IS DONE BY A MULTITUDE OF THINGS. ONE
7 OF THE THINGS IS THE NUMBER AND ALSO THE NAME. THEY
8 ARE BOTH ATTACHED TO THE FOLDER AND ALSO BY
9 FINGERPRINTS.

10 Q SO, ARE THE PERSON'S FINGERPRINTS CONTAINED
11 IN THE C.I.&I. FILE?

12 A YES, THEY ARE.

13 Q SO, ONCE YOU FOUND OUT THAT THIS PERSON HAD
14 THE C.I.&I. NUMBER, DID YOU RUN SOME KIND OF A CHECK ON
15 HIM THROUGH C.I.&I.?

16 A WHAT WE DO IS, WE MAINLY GO THROUGH THE FOLDER
17 AND TAKE A LOOK AT ALL THE DOCUMENTS CONTAINED THEREIN
18 AND WE ARE LOOKING FOR ANY TYPE OF INQUIRY OR ARREST AFTER
19 THAT JUNE 6TH DATE OF MISSING.

20 Q ALL RIGHT. IN THIS CASE, IT WOULD BE ARRESTS
21 INITIALLY BETWEEN JUNE THE 6TH AND JULY THE 18TH
22 OF 1984?

23 A THAT'S CORRECT.

24 Q DID YOU TURN UP ANYTHING?

25 A NO. THERE WAS NO ARREST DURING THAT PERIOD
26 OF TIME.

27 Q IF MR. LEVIN HAD BEEN ARRESTED DURING THAT
28 PERIOD OF TIME, WOULD IT HAVE SHOWN UP ON THAT CHECK?

14-3

1 A IT IS QUITE POSSIBLE, YES.

2 Q WHEN YOU SAY THAT IT IS "QUITE POSSIBLE,"
3 WHY IS THAT?

4 A SOMETIMES THERE IS A DELAY FROM THE TIME THAT
5 THE FINGERPRINTS ARE SUBMITTED FROM THE LAW ENFORCEMENT
6 AGENCY TO OUR DEPARTMENT AND FROM THAT POINT, GOING INTO
7 THE FOLDER. SO THERE IS SOMEWHAT OF A DELAY.

8 Q BUT IF A PERSON IS -- WELL, IS THE C.I.&I.
9 A CALIFORNIA STATE SYSTEM?

10 A YES, IT IS.

11 Q IF A PERSON IS ARRESTED IN CALIFORNIA, USING
12 WHATEVER NAME AND THE POLICE TAKE HIS PRINTS, WOULD THAT
13 RECORD UNDER MR. LEVIN'S NAME WITH THOSE FINGERPRINTS
14 BE FLAGGED?

15 A IF SUBMITTED FINGERPRINTS WERE SENT -- WELL,
16 IF THE FINGERPRINTS WERE SUBMITTED TO C.I.&I. AND THE
17 DEPARTMENT OF JUSTICE FINGERPRINTS ARE THEN MATCHED UP
18 WITH THE PRIOR RECORD.

19 IN THIS CASE, MR. LEVIN'S FINGERPRINTS SUBMITTED
20 ON ANOTHER CHARGE WOULD HAVE BEEN HOOKED UP TO THE ESTABLISHED
21 RECORD.

22 Q AFTER CHECKING THE CRIMINAL RECORD, WHAT DID
23 YOU DO?

24 A I BELIEVE AFTER THAT POINT IN TIME WE WERE
25 ABLE TO ESTABLISH THAT THERE WAS NO TYPE OF ACTIVITY AT
26 THE DATE OF MISSING.

27 WE THEN WENT AND CHECKED THE N.C.I.C. FILES.
28 THE N.C.I.C. IS THE NATIONAL CRIME INFORMATION CENTER,

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1 WHICH IS A PART OF THE F.B.I.

2 THAT IS A NATIONWIDE SYSTEM AND WE DID ASCERTAIN
3 THAT THE BEVERLY HILLS POLICE DEPARTMENT DID ENTER MR.
4 LEVIN'S NAME INTO THAT SYSTEM.

5 THE COURT: WE CALL HIM LEVIN.

6 THE WITNESS: LEVIN.

7 Q BY MR. WAPNER: AND WHAT DOES ENTERING HIS
8 NAME INTO THE SYSTEM MEAN?

9 A THAT MEANS THAT ANYWHERE WITHIN THE UNITED
10 STATES, IF THERE IS ANY INQUIRY MADE ON HIM, LAW ENFORCEMENT
11 SHOULD RECEIVE A HIT AND IT WOULD COME BACK TO THE AGENCY
12 AS TO WHO PUT THE STOP IN THE FILE AND FOR WHAT PURPOSES.

13 Q AND THE INFORMATION THAT WAS SUBMITTED TO
14 THE NATIONAL CRIME INFORMATION CENTER, WAS THAT DONE BY
15 YOUR PEOPLE OR BY THE BEVERLY HILLS POLICE DEPARTMENT?

16 A IT WAS DONE BY THE BEVERLY HILLS POLICE DEPARTMENT.

17 Q INCIDENTALLY, ON THE MISSING PERSONS REPORT,
18 WHO WAS THE POLICE OFFICER WHO FILLED THAT OUT?

19 A IT SAYS KING.

20 Q WHAT INFORMATION WAS SUBMITTED BY THE BEVERLY
21 HILLS POLICE DEPARTMENT TO THE NATIONAL CRIME INFORMATION
22 CENTER?

23 MR. BARENS: BEFORE THAT ANSWER COMES IN, YOUR HONOR,
24 I WOULD LIKE TO ASK MR. WAPNER A QUESTION, PLEASE.

25 THE COURT: SURE.

26 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

27 Q BY MR. WAPNER: WAS MR. --

28 MR. BARENS: DO WE HAVE AN UNDERSTANDING ON THAT?

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MR. WAPNER: MAY I HAVE A MOMENT, YOUR HONOR?

A THE COURT: YES.

(UNREPORTED COLLOQUY BETWEEN COUNSEL.)

MR. WAPNER: MAY WE APPROACH THE BENCH?

THE COURT: YES.

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1 (WHEREUPON, THE FOLLOWING PROCEEDINGS
2 WERE HELD AT THE BENCH:)

3 MR. WAPNER: YOUR HONOR, THE POINT OF THIS IS THAT
4 WHEN THEY SUBMITTED THE INFORMATION TO N.C.I.C. IT WAS ONLY
5 DONE BY HIS NAME. THEY DIDN'T PUT IN THE FINGERPRINTS. THAT
6 IS THE BASIC POINT OF ALL OF IT.

7 I GAVE MR. BARENS A RECORD OF THE PRINTOUT THAT
8 THEY ACTUALLY SEND TO THE NATIONAL CRIME INFORMATION CENTER.
9 THERE IS CERTAIN LANGUAGE TO WHICH HE OBJECTS.

10 ONE IS THAT IT SAYS "MISSING PERSON-INVOLUNTARY".
11 AND THEN THERE IS OTHER -- AND HE ASKED ME TO INSTRUCT THE
12 WITNESS NOT TO MENTION ANYTHING ABOUT THAT.

13 MR. BARENS: I ASKED --

14 MR. WAPNER: EXCUSE ME, COUNSEL.

15 MR. BARENS: I AM SORRY.

16 MR. WAPNER: AND IT LATER SAYS, "MENTAL CONDITION
17 AGITATED WEARS GLASSES UNDER INVESTIGATION 12 COUNTS OF THEFT,"
18 ET CETERA, ET CETERA, ET CETERA.

19 AND IT ALSO SAYS "BURGLAR ALARM IN HOUSE TURNED
20 OFF BEDDING GONE M/P SAID HE WAS GOING TO NEW YORK BUT
21 CLOTHES AND LUGGAGE IN RESIDENCE."

22 AND THEN IT GIVES THE PHONE NUMBER FOR THE
23 DETECTIVES.

24 THE COURT: THAT HAS ALREADY BEEN ESTABLISHED, HASN'T
25 IT, ANYWAY?

26 MR. WAPNER: IT HAS BEEN.

27 I DON'T THINK THAT -- AND OF COURSE --

28 MR. BARENS: WHAT HAS BEEN ESTABLISHED, YOUR HONOR?

1 MR. WAPNER: ALL OF THOSE FACTS.

2 THE COURT: ALL OF THE FACTS WHICH ARE SET FORTH THERE.

3 MR. BARENS: NO, SIR.

4 THE COURT: EXCEPT FOR THE WORD "INVOLUNTARY."

5 MR. BARENS: YES, SIR.

6 THE COURT: THAT IS RIGHT, EVERYTHING ELSE HAS BEEN
7 ESTABLISHED.

8 MR. BARENS: YES, SIR.

9 I SAID TO THE PEOPLE I WAS WILLING TO STIPULATE
10 TO EVERYTHING IN THERE, SO LONG AS WE INTERLINEATED THE
11 WORD "INVOLUNTARY" AND INSTRUCT THE WITNESS NOT TO USE THAT
12 WORD.

13 THE COURT: NOT TO USE THE WORD INVOLUNTARY?

14 MR. BARENS: YES, SIR.

15 THE COURT: THERE IS NO EVIDENCE SO FAR TO SHOW IT WAS
16 INVOLUNTARY.

17 MR. BARENS: THERE IS NO EVIDENCE TO SHOW EITHER WAY.

18 MR. WAPNER: WHAT I SAID TO COUNSEL, BECAUSE I
19 ANTICIPATED THAT IS WHAT COUNSEL IS GOING TO DO --

20 THE COURT: PARDON ME. WHY DON'T YOU ELIMINATE THE
21 WORD "INVOLUNTARY," ALL RIGHT?

22 MR. BARENS: THAT IS ALL I AM ASKING.

23 THE COURT: UP TO THIS POINT YOU HAVEN'T PROVED THAT
24 IT WAS AN INVOLUNTARY ABSENCE. THE JURY HAS TO DETERMINE
25 THAT, DON'T THEY?

26 MR. BARENS: YES, SIR.

27 MR. WAPNER: WELL, I UNDERSTAND THAT.

28 I AM NOT NECESSARILY SEEKING TO INTRODUCE THIS

15 1 DOCUMENT AT ALL.

2 THE POINT IS THAT ALL OF THIS INFORMATION,
3 INCLUDING THE INVOLUNTARY PART, IS HEARSAY INFORMATION. WHAT
4 IS IMPORTANT IS THAT THEY GIVE A DESCRIPTION OF HIM, HIS
5 DATE OF BIRTH AND HEIGHT AND WEIGHT AND ALL OF THAT STUFF.

6 THE COURT: WHY DON'T YOU HAVE ALL OF THAT EXCEPT YOU
7 ELIMINATE THE WORD "INVOLUNTARY," THAT HAS TO BE DETERMINED
8 BY THE JURY.

9 MR. BARENS: THAT IS ALL I AM ASKING.

10 MR. WAPNER: WELL, THE ONLY THING I AM CONCERNED ABOUT
11 IS WHERE IT SAYS "MENTAL CONDITION-AGITATED" I DON'T KNOW
12 THAT WE HAVE HAD ANY TESTIMONY ON THAT ONE WAY OR THE OTHER.

13 THE COURT: WELL, THERE HAS BEEN A LOT OF TESTIMONY
14 HERE ABOUT HIS MENTAL CONDITION.

15 MR. BARENS: YOU BET.

16 THE COURT: HE HAD AN AGITATED STATE OF MIND.

17 MR. BARENS: HIS MOTHER HAS TALKED ABOUT THAT.

18 THE COURT: DO YOU WANT THAT IN OR OUT?

19 YOU CAN STIPULATE THAT YOU CAN ELIMINATE "MENTAL
20 STATE-AGITATED."

21 MR. BARENS: I WON'T STIPULATE TO THAT.

22 THE COURT: YOU WON'T?

23 MR. BARENS: NO, SIR.

24 MR. WAPNER: THAT IS WHAT BROUGHT US UP TO THE BENCH.

25 MR. BARENS: NO, I THOUGHT WHAT BROUGHT US UP TO THE
26 BENCH WAS THE WORD "INVOLUNTARY."

27 MR. WAPNER: I WAS ABOUT TO AGREE TO HAVE THE WITNESS
28 STRIKE THAT AND I ASKED MR. BARENS, COULD WE STRIKE THE WORD

1 "AGITATED" AND HE SAID NO.

2 I WILL LEAVE IT UP TO YOUR HONOR.

3 THE COURT: ALL RIGHT, STRIKE "INVOLUNTARY."

4 MR. BARENS: AND INSTRUCT THE WITNESS/^{NOT}TO USE THAT WORD?

5 THE COURT: YES.

6 MR. BARENS: THANK YOU.

7 THE COURT: I THINK WE HAD BETTER TAKE OUR RECESS AT
8 THIS TIME.

9 MR. BARENS: THANK YOU, YOUR HONOR.

10 (WHEREUPON, THE FOLLOWING PROCEEDINGS

11 WERE HELD IN OPEN COURT IN THE PRESENCE

12 OF THE JURY:)

13 THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE ARE
14 VERY NEAR 12:00 AND WE WILL TAKE A RECESS NOW UNTIL 1:30
15 THIS AFTERNOON.

16 THE SAME ADMONITION I GAVE YOU WOULD STILL APPLY.

17 ALL RIGHT, 1:30.

18 (AT 11:55 A.M., A RECESS WAS TAKEN
19 UNTIL 1:30 P.M. OF THE SAME DAY.)
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1 SANTA MONICA, CALIFORNIA; THURSDAY, FEBRUARY 12, 1987; 1:37 P.M.

2 DEPARTMENT WEST C HON. LAURENCE J. RITTEBAND, JUDGE

3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4
5 (THE FOLLOWING PROCEEDINGS WERE HELD

6 IN OPEN COURT OUTSIDE THE PRESENCE

7 OF THE JURY:)

8 THE COURT: ALL RIGHT. THE DEFENDANT AND COUNSEL ARE
9 PRESENT. THE JURY IS NOT PRESENT.

10 I WILL HEAR THE MOTION ON THE ORDER OF PROOF
11 AS TO THE CONSPIRACY.

12 MR. WAPNER: YOUR HONOR, BEFORE WE EVEN GET TO THE ISSUE
13 OF THE ORDER OF PROOF, THIS IS A VERY GENERAL MOTION WHICH
14 SAYS "ANY STATEMENTS OF MR. PITTMAN" AND I ASK THE COURT TO
15 REQUIRE COUNSEL TO MAKE AN OFFER OF PROOF AS TO EXACTLY
16 WHAT IT IS THEY ARE SEEKING TO KEEP OUT OF EVIDENCE AND WHY
17 IT IS THAT THEY CLAIM THAT IT IS HEARSAY.

18 THE COURT: I ANTICIPATE THAT WHAT THEY WANT TO
19 RESTRICT YOU ON IS ANY KIND OF PROOF THAT WOULD CONNECT,
20 UNLESS THE CONSPIRACY IS SHOWN, WHICH WOULD ALLEGEDLY CONNECT
21 THE DEFENDANT WITH PITTMAN. ISN'T THAT TRUE?

22 MR. CHIER: WELL, IT GOES BEYOND THAT.

23 THE COURT: HOW MUCH BEYOND IT COULD IT GO?

24 MR. CHIER: IT GOES TO ACTUALLY PREVENTING THE
25 INTRODUCTION OF ANY EVIDENCE CONCERNING PITTMAN WHICH AT
26 THIS TIME IS EVIDENCE THAT A THIRD PARTY DID SOMETHING IN
27 NEW YORK, WHICH IS NOW BEING OFFERED IN THIS PROCEEDINGS
28 AGAINST MR. HUNT, WHO IS ON TRIAL FOR MURDER AND ROBBERY.

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1 AND UNLESS AND UNTIL, FIRST, THE PEOPLE CAN
2 SHOW -- ESTABLISH A PRIMA FACIE CONSPIRACY.

3 THE COURT: THE LAW IS EXACTLY THE OPPOSITE AND
4 I WILL READ TO YOU. IT IS EXACTLY THE OPPOSITE OF WHAT
5 YOU SAY.

6 YOU DON'T HAVE TO SHOW THE CONSPIRACY BEFORE
7 YOU CAN SHOW STATEMENTS OF THE CONSPIRATOR OR ANY ACTS
8 DONE BY A CONSPIRACY.

9 THE ORDER OF PROOF IS SUCH THAT THE COURT
10 WILL PERMIT AND DOES PERMIT AND HAS A RIGHT TO PERMIT
11 ANY PROOF, EVEN BEFORE THE ACTUAL CONSPIRACY IS ESTABLISHED.

12 DO YOU WANT THE AUTHORITIES? I WILL GIVE THEM
13 TO YOU.

14 MR. CHIER: NO. I KNOW THAT THERE IS AUTHORITY
15 FOR THAT.

16 BUT THERE IS A PREFERRED WAY OF HAVING --
17 THE COURT: WHAT ARE YOU WASTING MY TIME FOR?

18 MR. CHIER: WELL, YOUR HONOR, YOU HAVE THE DISCRETION
19 TO DO IT EITHER WAY.

20 THE COURT: WELL, I AM EXERCISING MY DISCRETION.
21 YOU DON'T HAVE TO PROVE A CONSPIRACY BEFORE YOU CAN SHOW
22 ACTS DONE PURSUANT TO THE CONSPIRACY AND I AM GOING TO
23 PERMIT YOU TO DO THAT.

24 MR. CHIER: YOUR HONOR, THERE IS A SECOND POINT
25 HERE WHICH IS, EVEN IF THE COURT FINDS THAT THE EVIDENCE
26 MAY BE ADMITTED SUBJECT TO BEING CONNECTED AT SOME LATER
27 TIME WHICH, OF COURSE, IS A PREJUDICIAL WAY OF HANDLING
28 IT FOR THE DEFENDANT IN A CASE SUCH AS THIS, BUT EVEN

1 IF THAT IS SO, YOUR HONOR, SECTION 1223 OF THE EVIDENCE
2 CODE REQUIRES THAT SUCH EVIDENCE IN THE NATURE OF ACTS
3 AND DECLARATIONS OF CO-CONSPIRATORS BE ADMISSIBLE ONLY
4 IF IT CAN BE SHOWN THAT THE ACTS AND/OR STATEMENTS TO
5 BE ADMITTED WERE COMMITTED OR UTTERED FIRST IN FURTHERANCE
6 OF THE CONSPIRACY AND, SECOND, DURING THE EXISTENCE OF
7 THE CONSPIRACY.

8 IN THIS CASE, IT IS ALLEGED THAT THE DEFENDANT
9 HUNT MURDERED MR. LEVIN ON OR ABOUT JUNE 6, 1984, AND
10 THAT MR. HUNT COMMITTED ROBBERY FROM THE PERSON OF MR.
11 LEVIN IN JUNE OF 1984 OF A CHECK FOR \$1.5 MILLION.

12 THE EVIDENCE WHICH THE PEOPLE SEEK TO ADMIT
13 AT THIS TIME CONCERNING MR. PITTMAN AND HIS ACTIVITIES
14 IN NEW YORK ARE NEITHER IN FURTHERANCE OF THE CONSPIRACY
15 NOR WERE COMMITTED DURING THE EXISTENCE OF THE CONSPIRACY,
16 WHICH NECESSARILY WOULD HAVE ENDED AT THE TIME THAT THE
17 CHECK WAS TAKEN FROM MR. LEVIN.

18 THE COURT: IN ORDER TO COVER UP THIS MURDER, I
19 UNDERSTAND THAT -- THE ALLEGED MURDER -- I UNDERSTAND
20 THAT THE PEOPLE WANT TO SHOW THAT PURSUANT TO THAT PARTICULAR
21 COVERUP, THE DEFENDANT AND PITTMAN CONSPIRED, THAT PITTMAN
22 WAS TO GO TO NEW YORK TO PRETEND TO BE LEVIN, TO ESTABLISH
23 THE FACT THAT LEVIN WAS NEVER MURDERED AND THAT HE DISAPPEARED
24 OF HIS OWN FREE WILL AND THAT IS WHAT I UNDERSTAND THE
25 PURPORT OF THE TESTIMONY IS TO BE.

26 MR. WAPNER: ESSENTIALLY.

27 THE COURT: AND THIS IS STILL IN THE FURTHERANCE
28 AND IN PURSUIT AND CONSISTENT WITH THE COVERUP OF THE
29 MURDER THAT YOU INTEND TO SHOW.

1 MR. WAPNER: THAT IS PRIMARLY WHAT WE INTEND TO SHOW,
2 THAT IT WAS ALL A PART OF A CONSPIRACY. IT IS NOT SOMETHING
3 THAT HE THOUGHT ABOUT AFTERWARDS. IT WAS ALL PART OF A
4 CONSPIRACY.

5 BUT IF I CAN BE HEARD JUST BRIEFLY, COUNSEL IS
6 CITING A SECTION TO THE COURT, SECTION 1223 OF THE EVIDENCE
7 CODE, WHICH HAS TO DO WITH EXCEPTIONS TO THE HEARSAY RULE,
8 WHICH IS THE POINT I AM TRYING TO MAKE AND I HAVE BEEN FROM
9 THE VERY BEGINNING.

10 IT DOESN'T TALK ABOUT CONDUCT. IT TALKS ABOUT
11 STATEMENTS. SO THEN THE QUESTION IS, WHAT ARE THE STATEMENTS?

12 AND ESSENTIALLY, WITHOUT GOING INTO EACH STATEMENT,
13 ALL OF THE STATEMENTS THAT HE MAKES THAT I ASSUME THEY ARE
14 SEEKING TO SUPPRESS ARE STATEMENTS WHERE PITTMAN SAYS,
15 "I AM LEVIN."

16 SO THEN THE QUESTION IS, ARE THEY HEARSAY?
17 AND IF THEY ARE HEARSAY, THEY HAVE TO BE OFFERED TO PROVE
18 THE TRUTH.

19 WE ARE NOT OFFERING THESE STATEMENTS TO PROVE
20 THAT PITTMAN WAS LEVIN, QUITE THE OPPOSITE. WE ARE OFFERING
21 THE STATEMENTS TO SHOW THAT HE MADE THE STATEMENT, "I AM
22 LEVIN," NOT TO PROVE THAT HE WAS LEVIN.

23 THE COURT: I WILL DENY THE MOTION.

24 MR. BARENS: YOUR HONOR, COULD I SPEAK TO MR. WAPNER
25 FOR A MOMENT? THERE IS ANOTHER POINT THAT PERHAPS WE COULD
26 SAVE SOME TIME BY ADDRESSING NOW.

27 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

28 MR. BARENS: YOUR HONOR, THE PEOPLE HAVE COURTEOUSLY

1 ADVISED ME THAT THEY PLAN DURING THE QUESTIONING OF THE
2 NEW YORK PEOPLE, TO BRING MR. PITTMAN INTO THE COURTROOM
3 FOR PURPOSES OF IDENTIFICATION.

4 NOW YOUR HONOR, I AM PERSONALLY FAMILIAR WITH
5 A VERY NICE PHOTOGRAPH THAT THE PEOPLE HAVE OF MR. PITTMAN,
6 THAT CERTAINLY, WITHOUT A DOUBT, DEPICTS HIS FACE IN A MANNER
7 NO LESS ACCURATE THAN THE PHOTOGRAPH WE HAVE SEEN OF MR. LEVIN
8 THROUGHOUT THE PROCEEDINGS ON REPEATED OCCASIONS.

9 I WOULD SUBMIT THAT IT WOULD BE HIGHLY PREJUDICIAL
10 TO MR. HUNT TO HAVE MR. PITTMAN BROUGHT IN HERE IN CHAINS
11 WEARING HIS PRISON OUTFIT, WHEN IT IS PATENTLY UNNECESSARY
12 TO DO SO BECAUSE THE IDENTIFICATION FROM THE PHOTOGRAPH
13 WILL ABSOLUTELY SUFFICE.

14 I BELIEVE THAT THE PHOTOGRAPH HAS BEEN PREVIOUSLY
15 SHOWN THE JURY AT SOME TIME DURING THESE PROCEEDINGS. THERE
16 IS ABSOLUTELY NO NECESSITY TO HUMILIATE THE DEFENSE BY
17 BRINGING THIS MAN IN HERE IN CHAINS WHEN THE PHOTOGRAPH IS
18 AN ACCURATE DEPICTION OF MR. PITTMAN, AS WELL AS HAVING
19 HIM HERE PRESENT.

20 IF THERE WAS AN ELEMENT THAT THE PHOTOGRAPH
21 AND HE WERE SOMEWHAT DIFFERENT OR THE PHOTOGRAPH IS OBSCURE
22 OR TOO SMALL OR SOMETHING LIKE THAT -- BUT THIS IS A PHOTOGRAPH
23 THAT IS ABSOLUTELY ADEQUATE TO IDENTIFY HIM FROM.

24 THE COURT: AND YOU CAN SEE THAT THAT IS PITTMAN?

25 MR. BARENS: I WILL STIPULATE.

26 MR. WAPNER: WELL, THE ONLY PROBLEM THAT I SEE IS THAT
27 WE DIDN'T MAKE ARRANGEMENTS TO HAVE MR. PITTMAN HAVE HIS
28 CIVILIAN CLOTHES.

1 THE REASON THAT IT IS IMPORTANT TO HAVE HIM
2 HERE, AS OPPOSED TO JUST A PHOTOGRAPH IS THAT FROM THIS
3 PHOTOGRAPH, IT IS JUST FROM BELOW THE NECK UP.

4 AND AS THE COURT IS AWARE, ONE OF THE IMPORTANT
5 THINGS FOR THE JURY TO KNOW ABOUT MR. PITTMAN, IS HIS PHYSICAL
6 STATURE. I THINK IF NOT TODAY, AT SOME POINT, IT IS GOING
7 TO BE VERY IMPORTANT FOR THIS JURY TO SEE MR. PITTMAN.

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1 THE COURT: WELL, SUPPOSE WE TAKE THE CHAINS OFF HIM?

2 THE BAILIFF: YES.

3 THE COURT: ALL RIGHT. WE'LL DO IT WITHOUT CHAINS,
4 THEN.

5 MR. WAPNER: AND THE OTHER THING I WOULD SUGGEST IS
6 THAT WE CAN PERHAPS TAKE A BREAK BEFORE THE --

7 THE COURT: IDENTIFICATION?

8 MR. WAPNER: THE IDENTIFICATION, SO THAT HE DOESN'T
9 HAVE TO BE BROUGHT OUT. HE CAN JUST BE SITTING THERE.
10 MAY I HAVE JUST A MOMENT?

11 (UNREPORTED COLLOQUY BETWEEN COUNSEL
12 AND THE BAILIFF.)

13 MR. WAPNER: IF WE COULD PLEASE, THE BAILIFF INFORMS
14 ME THAT THERE ARE SOME CIVILIAN CLOTHES. HOWEVER, BECAUSE
15 OF THE REASON WE WANTED HIM HERE, WHICH WAS TO DO WITH HIS
16 PHYSICAL STATURE, WE ARE NOT SURE WHETHER THEY ARE GOING TO
17 FIT HIM OR NOT.

18 THE COURT: WELL, I REMEMBER THE CLOTHING. I THINK
19 THEY WILL FIT HIM GENERALLY, WON'T THEY?

20 THE BAILIFF: WE CAN TRY HIM IN SOMETHING, YOUR HONOR.

21 THE COURT: ALL RIGHT. DO THAT.

22 MR. BARENS: JUDGE, MIGHT I BE HEARD?

23 THE COURT: YES.

24 MR. BARENS: JUDGE, IF I AM STANDING HERE TELLING
25 YOU THAT I AM WILLING TO STIPULATE THAT THE PERSON IN THE
26 PHOTOGRAPH IS MR. PITTMAN, I AM WILLING TO STIPULATE WITHOUT
27 FURTHER QUALIFICATION OR HESITATION THAT THE GUY IN THE
28 PHOTO IS THE MAN THESE PEOPLE WILL TALK ABOUT, IS THE PERSON

1 IN THE PHOTOGRAPH, THERE WILL BE NO CHALLENGE WHATSOEVER
2 BY THE DEFENSE AS TO WHO HE IS. I DON'T KNOW THE NECESSITY
3 FOR THIS.

4 THE COURT: IF YOU CAN GET THE DISTRICT ATTORNEY TO
5 AGREE TO IT, FINE. HE WANTS TO HAVE THE REAL EVIDENCE RATHER
6 THAN THE PHOTOGRAPHIC EVIDENCE. I HAVE NO CHOICE BUT TO
7 YIELD TO WHAT HE WANTS.

8 I AM NOT GOING TO BE IN A POSITION TO SAY NO,
9 HE HAS TO USE THE SUBSTITUTE. HE CAN HAVE THE REAL EVIDENCE
10 AVAILABLE. TO PROTECT EVERYBODY, WE CAN GET THE CIVILIAN
11 CLOTHES FOR HIM AND JUST HAVE HIM SIT THERE. THAT WOULD BE
12 SUFFICIENT.

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1 MR. BARENS: I HAVE ANOTHER POINT, YOUR HONOR, IN
2 RESPONSE TO YOUR HONOR'S POINT. 352 GIVES YOUR HONOR
3 DISCRETION TO REQUIRE THE USE OF THE PHOTOGRAPH RATHER
4 THAN THE USE OF THE PERSON.

5 THE COURT: WHEN THE CHOICE IS BETWEEN A PHOTOGRAPH
6 WHICH IS AS OBSCURE AS THE ONE I HAVE SEEN, JUST ONE OF
7 THE FACE, NOT ONE OF THE ENTIRE BODY, AND THEN HAVE THE
8 PERSON HIMSELF PRESENT, I THINK THAT THE PERSON HIMSELF
9 BEING PRESENT WITH EVERY SAFEGUARD TAKEN TO AVOID ANY
10 KIND OF PREJUDICE BY HIS BEING IN JAIL CLOTHING AND IN
11 CHAINS, WILL SERVE THE PURPOSE. IF WE CAN HAVE HIM DRESSED
12 IN CIVILIAN CLOTHES AND HAVE HIM SIT THERE AND THEN HAVE
13 COUNSEL REFER ANY WITNESS WHO IS GOING TO TESTIFY TO IDENTIFY
14 THE DEFENDANT PITTMAN, THEN I THINK THAT WOULD BE A BETTER
15 WAY OF DOING IT.

16 MR. BARENS: COULD THE DEFENSE ASK YOUR HONOR ONE
17 OTHER THING, SIR?

18 THERE INEVITABLY WILL BE AN APPEARANCE TO
19 THIS JURY THAT THAT MAN IS CONVICTED. HE IS GOING TO
20 BE IN THIS COURTROOM IN A --

21 THE COURT: WHO WAS CONVICTED?

22 MR. BARENS: MR. PITTMAN.

23 THE COURT: WHAT DO YOU MEAN?

24 MR. BARENS: THERE IS AN INEVITABLE APPEARANCE,
25 WHEN THEY SEE HIM HERE IN A SOMEWHAT CUSTODIAL APPEARANCE,
26 THAT HE HAS BEEN CONVICTED OF SOMETHING.

27 THE COURT: THERE WON'T BE ANY SUCH INFERENCE. NO
28 SUCH INFERENCE CAN BE DRAWN.

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1 MERELY BECAUSE HE IS IN CUSTODY -- YOUR CLIENT
2 WAS IN CUSTODY, WAS THERE ANY INFERENCE THAT HE WAS CONVICTED
3 AT THE TIME HE WAS IN CUSTODY?

4 MR. BARENS: YOUR HONOR, IN ORDER TO SAFEGUARD A
5 FAIR TRIAL ALL I AM SUGGESTING IS THAT YOUR HONOR COULD
6 MAKE EASILY A COMMENT THAT MR. PITTMAN HAS NOT BEEN CONVICTED.

7 THE COURT: I AM NOT GOING TO MAKE ANY COMMENT ONE
8 WAY OR THE OTHER.

9 MR. BARENS: WELL, THE PROBLEM IS IF YOU DON'T MAKE
10 A COMMENT, THERE IS AN APPEARANCE, YOUR HONOR, THAT IS
11 CONFUSING TO THE JURY.

12 HOW DO THEY KNOW WHETHER HE IS ABOUT TO STAND
13 TRIAL OR WHETHER HE HAS ALREADY BEEN CONVICTED?

14 MR. WAPNER: I DON'T THINK IT IS APPROPRIATE FOR
15 THE COURT TO COMMENT ONE WAY OR THE OTHER ON WHAT HIS
16 CONDITION IS.

17 THE COURT: THAT IS RIGHT, I DON'T INTEND TO.

18 WILL YOU SEE ABOUT GETTING CIVILIAN CLOTHES
19 FOR HIM?

20 THE BAILIFF: AND SHOULD HE BE SEATED OVER HERE?

21 MR. WAPNER: THE ONLY LOGISTICAL PROBLEM IS, HE
22 SHOULD NOT BE BROUGHT IN OR OUT DURING THE PRESENCE OF
23 THE JURY.

24 THE BAILIFF: NO, OF COURSE NOT.

25 THE COURT: ALL RIGHT, CALL YOUR NEXT WITNESS.

26 MR. WAPNER: YES, I THINK WE WERE IN THE PROCESS
27 OF EXAMINING MR. PANE.

28 THE COURT: YES.

19-3

1 MR. BARENS: YOUR HONOR, I WONDER IF YOUR HONOR --
2 IS THERE ANY SORT OF A SAFEGUARD, IF MR. PITTMAN'S COUNSEL
3 SHOULD BE HERE FOR ANY REASON?

4 THE COURT: NO. THE CASES ARE CLEAR THAT NONE OF
5 HIS CONSTITUTIONAL RIGHTS ARE GOING TO BE AFFECTED IF
6 HE IS EXHIBITED TO THIS JURY. IT IS NOT HIS CASE.

7 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE
8 HELD WITHIN THE PRESENCE AND HEARING OF
9 THE JURY:)

10 THE COURT: I AM SORRY FOR THE DELAY, LADIES AND
11 GENTLEMEN. WE HAD SOME OTHER MATTERS TO DISCUSS OUTSIDE
12 THE PRESENCE OF THE JURY. IT MIGHT HAPPEN A NUMBER OF
13 TIMES DURING THE COURSE OF THE TRIAL.

14 ALL RIGHT.

15
16 PAUL PANE,
17 HAVING BEEN PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED
18 FURTHER AS FOLLOWS:

19
20 DIRECT EXAMINATION (CONTINUED)

21 BY MR. WAPNER:

22 Q MR. PANE, I BELIEVE YOU WERE TALKING ABOUT
23 THE INFORMATION THAT WAS GIVEN BY THE BEVERLY HILLS POLICE
24 DEPARTMENT TO THE NATIONAL CRIME INFORMATION CENTER; WHEN
25 A POLICE DEPARTMENT PROVIDES THAT INFORMATION, HOW IS
26 THAT PHYSICALLY DONE?

27 A THE POLICE DEPARTMENTS THEMSELVES ARE RESPONSIBLE
28 FOR ENTERING THAT INFORMATION VIA A COMPUTER NETWORK INTO

1 THAT PARTICULAR SYSTEM.

2 Q AND DOES EACH POLICE DEPARTMENT HAVE A COMPUTER
3 TERMINAL THAT FEEDS INTO THE N.C.I.C. SYSTEM?

4 A YES. EVERY LAW ENFORCEMENT AGENCY OR POLICE
5 DEPARTMENT AND SHERIFF'S DEPARTMENT WITHIN CALIFORNIA
6 HAS THE AVAILABILITY TO ENTER AND CANCEL.

7 Q IN THIS CASE, WAS THERE SOME INFORMATION ENTERED
8 BY THE BEVERLY HILLS POLICE DEPARTMENT INTO THE N.C.I.C.
9 COMPUTER?

10 A YES, THERE WAS.

11 Q AND DID THEY PUT THE NAME OF THE MISSING PERSON
12 INTO THE N.C.I.C. SYSTEM?

13 A YES, THEY ENTERED RONALD GEORGE LEVIN.

14 Q ANY OTHER NAME?

15 A NO, THEY DIDN'T.

16 Q AND DID THEY PUT IN -- WHAT OTHER INFORMATION --
17 DID THEY PUT IN THE HEIGHT AND WEIGHT?

18 A THEY PUT IN THE PHYSICAL DESCRIPTION, WHICH
19 INCLUDES THE SEX, THE RACE, THE INDIVIDUAL'S AGE OR DATE
20 OF BIRTH, HIS WEIGHT, HIS HEIGHT, HIS EYE COLOR AND HIS
21 HAIR COLOR.

22 20 FO.

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1 Q WHAT WERE THOSE THINGS IN THIS CASE?

2 A THEY HAD SEX, MALE; RACE, WHITE; DATE OF BIRTH
3 AS 2/16/42; HEIGHT SIX-FOOT TWO; WEIGHT 170 POUNDS.

4 THE EYES WERE BLUE. THE HAIR WAS GRAY.

5 Q AND DOES THAT SYSTEM HAVE THE CAPABILITY OF
6 ENTERING INTO IT THE PERSON'S FINGERPRINTS?

7 A YES.

8 Q WAS THAT DONE IN THIS CASE?

9 A NO, IT WAS NOT.

10 Q AND WHAT IS THE EFFECT OF PUTTING ALL THIS
11 INFORMATION INTO THE N.C.I.C. COMPUTER?

12 A SINCE IT IS A NATIONAL SYSTEM, ANY LAW ENFORCEMENT
13 AGENCY WITHIN THE UNITED STATES CAN INQUIRE INTO IT AND
14 GET A RESPONSE, EITHER A NEGATIVE RESPONSE OR A POSITIVE
15 HIT BACK ON THEIR INQUIRY.

16 FOR EXAMPLE, BEVERLY HILLS POLICE -- MAY I
17 EXPLAIN?

18 Q YES, PLEASE.

19 A BEVERLY HILLS POLICE DEPARTMENT ENTERED MR. LEVIN'S
20 NAME INTO THE SYSTEM AND THIS WOULD ALLOW -- IF FOR EXAMPLE,
21 MR. LEVIN WAS STOPPED LET'S SAY IN FLORIDA AND A LAW
22 ENFORCEMENT AGENCY COULD INQUIRE INTO THE N.C.I.C. SYSTEM
23 USING MR. LEVIN'S NAME AND DATE OF BIRTH AND GET A POSITIVE
24 RESPONSE BACK, WHICH WOULD TELL THEM HE IS A MISSING PERSON
25 AND THAT THE INTERESTED AGENCY IS BEVERLY HILLS POLICE
26 DEPARTMENT IN CALIFORNIA.

27 Q AND IF USING YOUR EXAMPLE, HE HAD BEEN STOPPED
28 IN FLORIDA AND THE FLORIDA PEOPLE RAN HIS NAME UNDER THE

20 1 N.C.I.C. SYSTEM AND FOUND HIM, WOULD THEY PUT ANYTHING
2 BACK INTO THE SYSTEM?

3 A THE SYSTEM WOULD AUTOMATICALLY GIVE THEM A HIT,
4 GIVE THEM A RESPONSE, THE EXACT RESPONSE THAT THERE HAD BEEN
5 A HIT AND GIVE THEM THE RECORD THAT BEVERLY HILLS PUT
6 INTO THE SYSTEM. THE FLORIDA AGENCY THEN WOULD CONTACT
7 BEVERLY HILLS POLICE DEPARTMENT AND BEVERLY HILLS HAS TO
8 RESPOND WITHIN TEN MINUTES.

9 Q AND WHEN YOU DO YOUR CHECK OF THE N.C.I.C. SYSTEM,
10 WHAT ARE YOU LOOKING FOR?

11 A I AM LOOKING TO MAKE SURE THAT THE INDIVIDUAL
12 HAS BEEN ENTERED INTO THE N.C.I.C. SYSTEM.

13 I TAKE A LOOK AT THE DATE ENTERED AND TIMES,
14 IF THERE IS SOME INFORMATION THAT NEEDS TO BE CORRECTED,
15 WE WILL THEN NOTIFY THE ENTERING AGENCY AND REQUEST THAT
16 THEY CHANGE THAT INFORMATION.

17 Q DID YOU HAVE A COPY OF MR. LEVIN'S FINGERPRINTS?

18 A YES, I DID.

19 Q DID YOU PUT THAT INFORMATION INTO THE N.C.I.C.
20 SYSTEM?

21 A NO, WE DID NOT.

22 Q WHY?

23 A MAINLY BECAUSE AT THAT PARTICULAR TIME, WE WERE
24 NOT MANDATED BY LAW TO DO SO, AS WE ARE NOW.

25 ADDITIONALLY, WE DID NOT HAVE THE PERSONNEL TO
26 DO THAT. WE MAINLY LOOK AT THINGS THAT WE CONSIDER MORE
27 IMPORTANT. THAT WOULD BE THE HEIGHT AND WEIGHT AND THE DATE
28 OF THE LAST CONTACT BEING CORRECT. THOSE AREAS ARE VERY

21 1 IMPORTANT.

2 Q THE DATE OF THE LAST CONTACT? IS THAT IN THE
3 N.C.I.C. SYSTEM?

4 A YES, IT IS.

5 Q WHAT DOES IT SAY?

6 A IT SAYS 6/6/84.

7 Q AND DOES IT INDICATE ON THAT N.C.I.C. ENTRY,
8 THAT HE IS IN FACT, A MISSING PERSON?

9 A YES, IT DOES.

10 Q AFTER DOING THE CHECK -- WHEN YOU DID THE CHECK
11 OF THE N.C.I.C. SYSTEM, DID YOU COME UP WITH ANYTHING BETWEEN
12 THE DAY OF JULY 16 WHEN THE CHECK WAS BEING DONE AND
13 JUNE 6?

14 A THERE APPEARED TO BE NO ACTIVITY OR ANY TYPE OF
15 MOVEMENT WE COULD FIND WITH MR. LEVIN AFTER THE DATE OF
16 MISSING.

17 Q WHAT IS THE NEXT THING THAT IS DONE IN POINT OF
18 TIME?

19 A THE NEXT THING THAT IS DONE IS, THEN THE DENTAL
20 RECORDS ARE CHARTED OUT OR CODED AND THOSE DENTAL RECORDS
21 ARE THEN COMPARED AGAINST THE DENTAL RECORDS OF ALL OF THE
22 UNIDENTIFIED DECEASED THAT WE HAVE IN OUR FILES.

23 WE TRY AND ASCERTAIN A MAKE BETWEEN A MISSING
24 PERSON AND AN UNIDENTIFIED DECEASED.

25 Q AND DID YOU, IN ORDER TO DO THAT -- DO YOU HAVE
26 TO GET THE DENTAL RECORDS FROM SOMEBODY?

27 A YES, SIR. WE HAVE TO HAVE THE DENTAL CHART AND
28 THE X-RAYS.

1 Q AND DID YOU DO THAT IN THIS CASE?

2 A YES. THEY WERE SUBMITTED TO US.

3 Q FROM WHOM?

4 A FROM THE BEVERLY HILLS POLICE DEPARTMENT,
5 OFFICER KING.

6 Q AND THE AREA OF COMPARISON OF DENTAL RECORDS
7 IS PART OF YOUR SPECIALTY?

8 A YES.

9 Q HOW LONG HAVE YOU BEEN WORKING IN THAT SECTION?

10 A SINCE 1979.

11 Q WHEN YOU GOT THE DENTAL RECORDS IN THIS CASE,
12 DID YOU NOTICE ANYTHING PECULIAR ABOUT THAT?

13 A THE FIRST THING I DID NOTICE WAS THAT MR. LEVIN
14 HAD QUITE A BIT OF DENTAL WORK, VERY UNIQUE DENTAL WORK.

15 IN FACT, HE HAD A MULTITUDE OF GOLD FILLINGS.
16 THEY WERE GOLD FILLINGS AND EXPENSIVE WORK, VERY, VERY
17 UNIQUE.

18 I COULD LOOK IN MY RECORDS BUT TO THE BEST OF
19 MY KNOWLEDGE, WITHOUT LOOKING AT MY RECORDS, I THINK THAT
20 HE HAD PROBABLY OUT OF 32 TEETH THAT ARE NORMALLY IN AN
21 INDIVIDUAL'S MOUTH, PROBABLY 20 OF THEM HAD RESTORATIONS,
22 GOLD FILLINGS. THAT IS VERY, VERY UNIQUE.

23 Q AND WHAT WAS THE SIGNIFICANCE OF THAT TO YOU?

24 A THAT SIGNIFICANCE TO ME WAS THAT IF WE HAD AN
25 UNIDENTIFIED DECEASED INDIVIDUAL IN OUR FILES, THERE WOULD
26 NEVER BE A DOUBT IN MY MIND THAT I COULD NOT MATCH THEM UP.

27

28

2 1 Q BECAUSE OF THE UNIQUENESS OF THE DENTAL RECORDS?

2 A YES.

3 Q AND YOU GET THOSE DENTAL RECORDS -- WELL, DID
4 THEY COME TO YOU OR SOMEONE ELSE IN THE CASE?

5 A THEY CAME TO ME.

6 Q WHAT DID YOU DO WITH THEM?

7 A I CHARTED THEM UP AND I CODED THEM AND MADE THE
8 COMPARISON.

9 I TALKED TO THE DENTIST AND VERIFIED THE WORK,
10 ALSO. I DO THAT ON EVERY DENTAL THAT I WORK UP.

11 AND ONCE THAT WAS COMPLETED, I THEN COMPARED
12 MR. LEVIN'S DENTAL RECORDS AGAINST THE UNIDENTIFIED DECEASED
13 DENTAL RECORDS FOR ANY POSSIBLE MATCHES.

14 Q AND WHAT DID YOU FIND?

15 A THERE WAS NO MATCHES AT ALL. THAT BASICALLY MEANS
16 THAT THERE WAS NO UNIDENTIFIED DECEASED FOUND IN THE STATE OF
17 CALIFORNIA THAT MATCHED MR. LEVIN'S DENTAL RECORDS.

18 CORONERS ARE MANDATED BY LAW TO SUBMIT LIKE I
19 MENTIONED EARLIER, DENTAL RECORDS ON ALL THEIR UNIDENTIFIED
20 DECEASED.

21 Q ALL RIGHT. WHEN YOU INITIALLY GOT THE DENTAL
22 RECORDS AND CHARTED THEM AND CHECKED THEM AGAINST UNIDENTIFIED
23 DECEASED PERSONS, WHEN WAS THAT DONE?

24 A THAT WAS DONE APPROXIMATELY THE TIME OF THE
25 INDEXING, WHICH I HAD STATED EARLIER, WAS AROUND 7/17/84.

26

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21-1

1 Q AND AFTER DOING THE DENTAL INDEXING, WHAT
2 ELSE DID YOU DO?

3 A ONCE I WAS ASSURED THAT THERE WAS NO POSSIBLE
4 MATCHES, THEN THE REPORT WAS PLACED IN THE FILE.

5 THE APPROPRIATE FILES WERE FLAGGED OR A STOP
6 NOTICE WAS PLACED ON THEM.

7 THE DENTAL CHART I HAD MADE UP WENT INTO A
8 DENTAL FILE AND ONCE THE REPORT IS INDEXED, IT IS CONTINUALLY
9 COMPARED AGAINST ALL INCOMING JOHN DOES OR UNIDENTIFIED
10 DECEASED FROM THEN ON.

11 Q NOW, IS THERE SOMETHING CALLED THE AUTOMATED
12 PROPERTY UNIT?

13 A YES. THE AUTOMATED PROPERTY UNIT IS WHAT
14 THEY CALL A PAWN UNIT.

15 Q WHAT IS THAT?

16 A A PAWN UNIT IS THE PAWN UNIT -- THERE, WITHIN
17 THE DEPARTMENT OF JUSTICE IS A CENTRAL REGISTRY AND EVERYTHING
18 COMES TO ONE FOCAL POINT AND THEY ARE UTILIZED BY LAW
19 ENFORCEMENT AGENCIES AND THE PAWN DEALERS, ONCE AN INDIVIDUAL
20 COMES IN AND PAWNS AN ITEM, THE PAWN DEALERS ARE MANDATED
21 BY LAW TO SUBMIT THAT PARTICULAR PAWN SLIP TO THE LOCAL
22 AGENCY, POLICE DEPARTMENT OR SHERIFF'S DEPARTMENT. THEY
23 IN TURN SUBMIT THAT TO THE DEPARTMENT OF JUSTICE AND THAT
24 GOES INTO OUR FILE AND IT IS KEPT THERE.

25 AT THE TIME THAT MR. LEVIN'S REPORT CAME IN,
26 THAT WAS ONE OF THE OTHER FILES THAT WE DID CHECK TO SEE
27 IF THERE WAS ANY PAWNING BY MR. LEVIN. THERE WAS NONE.

28 WE THEN WENT AHEAD AND PLACED A STOP NOTICE

21-2

1 IN THAT FILE ALSO, THAT IF ANY PAWN TICKET CAME IN FROM
2 THAT POINT FORWARD, IT WOULD HIT AGAINST THAT STOP NOTICE.

3 Q NOW, DID YOU PUT STOP NOTICES IN ALL OF THESE
4 FILES?

5 A YES, WE DID.

6 Q WHAT IS THE EFFECT OF THAT?

7 A THAT IS FOR THE -- IF THERE IS ANY ACTIVITY
8 WHATSOEVER ON ANY ONE OF THOSE FILES, OUR STOP NOTICE
9 WILL THEN ALERT THAT PARTICULAR INDIVIDUAL TO GET IN CONTACT
10 WITH US.

11 Q SO THE FIRST CHECK YOU DO IS TO CHECK BETWEEN
12 THE DATE THAT HE IS REPORTED MISSING, WHICH WAS JUNE 6TH,
13 AND THE DATE YOU DO THE CHECK, WHICH IS JULY THE 18TH,
14 RIGHT?

15 A THAT IS CORRECT.

16 Q IF YOU HAVEN'T COME UP WITH ANYTHING AT THAT
17 POINT, THEN YOU PUT STOP NOTICES IN ALL OF THESE FILES
18 THAT YOU HAVE MENTIONED TO US?

19 A THAT IS CORRECT.

20 Q THEN AS THE OTHER PEOPLE COME IN WHO ARE REPORTED
21 MISSING, YOU CHECK THEM AGAINST ALL OF THE EXISTING FILES?

22 A THAT IS CORRECT.

23 Q AND AS YOU CHECK THE SUBSEQUENT PEOPLE, MR.
24 LEVIN'S NAME WOULD BE IN THE EXISTING FILES?

25 A COULD YOU REPEAT THAT QUESTION?

26 Q OKAY. ONCE YOU ARE FINISHED CHECKING DOING
27 THE INITIAL CHECK ON MR. LEVIN, HIS NAME GOES INTO THE
28 FILES IS THAT RIGHT, AND STOP NOTICES PUT ON IT?

1 A YES.

2 Q AND THEN IF SOME SUBSEQUENT PERSON COMES UP
3 MISSING, YOU CHECK THAT PERSON AGAINST ALL OF THE EXISTING
4 FILES, INCLUDING MR. LEVIN?

5 A IF AN UNIDENTIFIED DECEASED, IS THAT WHAT
6 YOU ARE TALKING ABOUT?

7 Q YES.

8 A YES, THAT IS CORRECT. HIS FILE IS AUTOMATICALLY
9 INCLUDED IN THE SEARCH.

10 Q IN TERMS OF FLAGGING THESE THINGS, WAS THERE
11 A FLAG PUT IN THE FILE AT D.M.V., FOR EXAMPLE?

12 A YES, THERE WAS.

13 Q WHAT IS THE EFFECT OF THAT?

14 A ANY TIME THERE IS ANY TYPE OF INFRACTION OR
15 ANY TYPE OF MOVEMENT ON MR. LEVIN'S DRIVER'S LICENSE NUMBER,
16 THE COMPUTER WILL AUTOMATICALLY GO AHEAD AND GIVE US A
17 REPLY TO LET US KNOW THERE HAS BEEN AN INFRACTION ON THAT
18 PARTICULAR DRIVER'S LICENSE NUMBER.

19 Q AND DOES THE INFORMATION IN THE DEPARTMENT
20 OF MOTOR VEHICLES COMPUTER ALSO GIVE THE NAME AND HEIGHT
21 AND WEIGHT AND DATE OF BIRTH AND ALL OF THAT?

22 A IT HAS EXACTLY WHAT IS ON THE DRIVER'S LICENSE.

23 Q AND LIKEWISE, IS THERE A NOTIFICATION PUT
24 IN THE N.C.I.C. COMPUTER?

A THAT'S CORRECT.

25 Q AND THE SAME WITH THE AUTOMATED PROPERTY UNIT,
26 SO IF HE PAWNS ANYTHING SUBSEQUENT TO JULY 18TH WHEN YOU
27 DO THE INITIAL CHECK, YOU ARE NOTIFIED OF THAT ALSO?

28 A THAT'S CORRECT.

1 Q AND IF A PERSON SUBSEQUENTLY COMES -- YOU
2 GET SOME INFORMATION ON ANOTHER MISSING PERSON, NOT NECESSARILY
3 AN UNIDENTIFIED DECEASED BUT ANOTHER MISSING PERSON, THAT
4 NEW PERSON THAT COMES IN IS CHECKED AGAINST ALL OF THE
5 EXISTING FILES; IS THAT RIGHT?

6 A AGAINST THE UNIDENTIFIED EXISTING FILE.

21A FOL.

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1 MR. WAPNER: MAY I HAVE A MOMENT?

2 (UNREPORTED COLLOQUY BETWEEN MR. WAPNER
3 AND THE WITNESS.)

4 Q BY MR. WAPNER: DID YOU BRING A COPY OF THE
5 DENTAL X-RAYS WITH YOU?

6 A YES, I DID.

7 Q JUST HOLD THAT UP AND SHOW IT TO THE JURY --
8 MR. BARENS: FOUNDATION, YOUR HONOR.

9 THE COURT: PARDON ME.

10 MR. BARENS: FOUNDATION, ACTUALLY, YOUR HONOR.

11 THE COURT: TELL US WHERE YOU GOT THAT.

12 THE WITNESS: I RECEIVED THIS FROM THE BEVERLY HILLS
13 POLICE DEPARTMENT, ALONG WITH THE REPORT THAT THEY SUBMITTED.

14 THE COURT: SUBJECT TO CONNECTION, GO AHEAD.

15 Q BY MR. WAPNER: AND IS THERE A NAME ON THE TOP
16 OF THERE?

17 A YES, THERE IS. IT SAYS "RON LEVIN."

18 MR. WAPNER: OKAY, I DON'T KNOW. I WASN'T REALLY SURE
19 WHAT GOOD IT IS GOING TO DO TO HAVE THIS MARKED AS AN
20 EXHIBIT. I DON'T KNOW IF IT IS GOING TO HELP THE JURY
21 BUT THAT IS A COPY.

22 THE COURT: IT WILL JUST CLUTTER UP THE RECORD. I
23 DON'T THINK YOU NEED IT.

24 MR. WAPNER: WELL, SINCE THERE WAS A FOUNDATION
25 OBJECTION, I WASN'T MUCH GOING TO BOTHER BUT IF THEY CAN HAVE
26 173, THEY CAN HAVE 174, I GUESS. CAN WE MARK IT NEXT IN
27 ORDER?

28 THE COURT: YOU WANT IT MARKED?

2 ? 1 MR. WAPNER: IT HASN'T BEEN RECEIVED IN EVIDENCE.

2 MR. BARENS: I AM NOT EVEN INTO THAT YET.

3 THE COURT: SUBJECT TO CONNECTION, I WILL MARK IT AS
4 174.

5 MR. BARENS: YOUR HONOR, I AM NOT SURE AS TO THE RELEVANCY
6 OF THE X-RAYS, YOUR HONOR.

7 THE COURT: WELL, THE RELEVANCY IS WHAT COUNSEL HAS
8 BEEN TRYING TO ESTABLISH ALL OF THIS TIME, THAT THEY HAVE
9 MADE A RECORD AND THEY ARE CHECKING EVERYBODY WHO MIGHT
10 BE UNIDENTIFIED TO SEE WHETHER IT MIGHT BE HE AND ONE OF THE
11 WAYS OF IDENTIFYING PEOPLE ARE BY X-RAYS OF TEETH.

12 MR. BARENS: ALL RIGHT, IT SOUNDS REASONABLE.

13 THE COURT: 174 FOR IDENTIFICATION, THAT WILL BE.

14 MR. WAPNER: THANK YOU, YOUR HONOR.

15 THE COURT: THAT WILL BE THE X-RAYS.

16 MR. WAPNER: I HAVE NOTHING FURTHER -- EXCUSE ME,
17 YOUR HONOR. I AM SORRY. I DO. THANK YOU.

18 Q BEFORE YOU CAME DOWN HERE TO TESTIFY, DID YOU
19 DO AN UPDATED CHECK OF ALL OF THE ITEMS THAT YOU HAVE TALKED
20 ABOUT?

21 A YES, BEFORE I CAME DOWN YESTERDAY AFTERNOON, I
22 WENT AHEAD AND RECHECKED EVERYTHING ONE MORE TIME, D.M.V.,
23 HIS CRIMINAL HISTORY FOLDER, LOOKING FOR ANY TYPE OF ACTIVITY
24 AGAIN JUST TO MAKE SURE BEFORE I CAME DOWN THAT THERE WAS
25 NO ACTIVITY.

26

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22A-1

1 Q AND PUTTING D.M.V. ASIDE FOR ONE SECOND, WHEN
2 YOU CHECKED THAT, WHAT DID YOU FIND?

3 A HIS CRIME RECORD, THERE WAS STILL NO ACTIVITY.
4 THERE WERE NO ARRESTS AND NO ACTIVITY WHATSOEVER WITH
5 HIS FOLDER.

6 Q NO ARRESTS WHERE?

7 A ANYWHERE WITHIN THE STATE OF CALIFORNIA.

8 Q DID YOU CHECK THE N.C.I.C. SYSTEM?

9 A WE INQUIRED. IT WAS STILL IN THE SYSTEM AND
10 THAT IS ALL.

11 Q AND THERE HAD NOT BEEN ANY REPORTS FROM ANYBODY
12 SAYING THEY HAD ARRESTED HIM IN VARIOUS PLACES OR ANYTHING
13 LIKE THAT? OR WOULD THAT BE THE SYSTEM?

14 A THAT WOULD NOT SHOW. I JUST WANTED TO MAINTAIN
15 THAT HE WAS STILL IN THE N.C.I.C. SYSTEM AND HE WAS.

16 Q DID YOU DO THE AUTOMATED PROPERTY UNIT CHECK
17 ALSO?

18 A WE DOUBLE-CHECKED. THE FLAG WAS STILL IN
19 THE FILE. THERE HAD BEEN NO ACTIVITY.

20 Q MEANING THAT HE HAD NOT PAWNED ANYTHING BETWEEN
21 JUNE 6TH AND YESTERDAY'S DATE?

22 A THAT'S CORRECT.

23 Q AND WHEN YOU DID THE CHECK ON THE DEPARTMENT
24 OF MOTOR VEHICLES RECORDS, WHAT DID YOU FIND?

25 A I FOUND THAT HIS DRIVER'S LICENSE WAS UNCHANGED.
26 THERE WAS NO DIFFERENCE IN IT. THERE WAS NO ACTIVITY ON
27 IT FROM THE DAY WE FIRST INQUIRED ON IT, WHICH WAS BACK
28 IN JULY OF 1974 UNTIL YESTERDAY.

1 ALTHOUGH, WHEN I DID GO AHEAD AND INQUIRE
2 TO SEE IF RONALD G. LEVIN DID PURCHASE ANY VEHICLES OR
3 HAD PURCHASED ANY VEHICLES OR HAD ANY VEHICLES WHATSOEVER
4 IN HIS NAME, I DID GET A HIT OR A POSITIVE RESPONSE BACK
5 FROM THE DEPARTMENT OF MOTOR VEHICLES SAYING THERE WAS
6 A 1981 HONDA MOTORCYCLE REGISTERED TO HIM.

7 Q WHAT DID YOU DO WHEN YOU FOUND THAT OUT?

8 A I IMMEDIATELY TOOK A LOOK AT THE DATES OF
9 THE TRANSACTIONS, LOOKING AGAIN FOR ANYTHING PAST THE
10 JULY 6, 1984 DATE.

11 I CAME ACROSS TWO DATES THAT IMPRESSED ME.
12 ONE WAS AUGUST 18, 1982 WHICH SAID THAT THE UNCLAIMED
13 REGISTRATION CERTIFICATE AND THE DATE OF 1/27/87 --

14 Q WHAT HAPPENED ON THAT DATE?

15 A THERE WAS AN AP. IN PROCESS, AN APPLICATION
16 IN PROCESS AND TO CONTACT D.M.V., THE DEPARTMENT OF MOTOR
17 VEHICLES, TO FIND OUT ABOUT THIS PARTICULAR 1981 HONDA
18 THAT HAD MR. LEVIN'S NAME.

19 Q DID YOU DO THAT?

20 A AFTER I GRABBED MY CHEST, YES. I DID. I DID
21 CONTACT THE DEPARTMENT OF MOTOR VEHICLES AND I DID OBTAIN
22 SOME RECORDS FROM THE DEPARTMENT OF MOTOR VEHICLES TO
23 CLARIFY THAT PARTICULAR DATE.

24 22B FOL.

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2:
1 Q WHAT DID YOU FIND OUT?

2 A I FOUND OUT THAT AN INDIVIDUAL BY THE NAME OF
3 DANA BRADLEY LAIDMAN L-A-I-D-M-A-N, WAS AN INDIVIDUAL TRYING
4 TO PURCHASE THE '81 HONDA, HAD SUBMITTED THE PINK SLIP OR
5 THE OWNERSHIP TO D.M.V.

6 THERE WERE SOME PROBLEMS WITH THE PAPERWORK AND
7 D.M.V., ON 1/27/87 -- THAT IS WHY THAT DATE APPEARS --
8 SENT BACK THE PAPERWORK TO MR. LAIDMAN CONCERNING THE
9 HONDA.

10 BUT UNTIL THE PAPERWORK COMES BACK CORRECTED,
11 THEY ARE GOING TO GO AHEAD AND KEEP THE RECORD IN MR. LEVIN'S
12 NAME FOR THE HONDA.

13 Q AND DID YOU DO SOME CHECKING ON MR. LAIDMAN?

14 A YES, I DID.

15 Q WHAT DID YOU FIND OUT?

16 A I INQUIRED, USING DANA BRADLEY LAIDMAN INTO
17 THE D.M.V. AND OBTAINED A DRIVER'S LICENSE AND A DATE OF
18 BIRTH.

19 I ALSO MADE A CRIMINAL HISTORY CHECK.

20 Q WHAT HAPPENED WHEN YOU MADE THE CRIMINAL HISTORY
21 CHECK?

22 A WE HAVE AN INDIVIDUAL FILE WITH THE SAME NAME,
23 SAME DATE OF BIRTH, WITH AN ARREST RECORD FROM BEVERLY HILLS
24 POLICE DEPARTMENT.

25 Q WHEN DOES IT SHOW HE WAS ARRESTED?

26 A IT SHOWS HE WAS ARRESTED ON 10/3/86.

27 Q AND DOES IT INDICATE WHETHER HE WAS IN POSSESSION
28 OF THAT MOTORCYCLE AT THE TIME HE WAS ARRESTED?

2: 1 A THIS PARTICULAR CRIME HISTORY RECORD, NO.

2 Q WHAT WAS HE ARRESTED FOR?

3 A HE WAS ARRESTED FOR GRAND THEFT PROPERTY.

4 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

5 MR. BARENS: MAY WE HAVE A MOMENT?

6 THE COURT: YES.

7 MR. BARENS: WE HAVE A STIPULATION. I WANT TO MAKE
8 SURE WE HAVE THE LANGUAGE TOGETHER.

9 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

10 MR. WAPNER: YOUR HONOR, COUNSEL, MAY IT BE STIPULATED
11 THAT MR. DANIEL (SIC) LAIDMAN IS THE NEPHEW OF LEN MARMOR,
12 WHO IS THE WITNESS WHO TESTIFIED IN THIS PROCEEDINGS, THAT
13 HE OBTAINED THIS 1981 MOTORCYCLE TO WHICH THIS WITNESS
14 MR. PANE, HAS JUST MADE REFERENCE, FROM MR. MARMOR, THAT
15 MR. MARMOR GOT THE MOTORCYCLE AND THE PINK SLIP FROM
16 MR. LEVIN SOMETIME BEFORE JUNE THE 6TH OF 1984 AND KEPT THE
17 PINK SLIP AND REGISTRATION IN MR. LEVIN'S NAME AND NEVER
18 CHANGED IT.

19 MR. BARENS: YES, BASED ON THE REPRESENTATIONS AND
20 ASSURANCES GIVEN BY THE PEOPLE TO DEFENSE COUNSEL, WE WILL
21 ACCEPT CATEGORICALLY AND ENTER INTO THAT STIPULATION.

22 THE COURT: LADIES AND GENTLEMEN, A STIPULATION,
23 SUCH AS THE ONE YOU JUST HEARD, ALL OF THE FACTS THAT HAVE
24 BEEN RECITED WILL BE ACCEPTED BY YOU AND BE CONCLUSIVELY
25 ESTABLISHED. YOU ACCEPT THAT AS BEING PROVED IN THIS CASE.

26 MR. WAPNER: THANK YOU, YOUR HONOR.

27 Q MR. PANE, WHEN YOU FOUND OUT INFORMATION SUCH AS
28 THAT WHICH YOU CAME UP WITH YESTERDAY, ON THIS D.M.V.

1 PRINTOUT, ARE YOU REQUIRED TO NOTIFY THE POLICE AGENCY
2 WHO FILED THE MISSING PERSON'S REPORT?

3 A PROCEDURES REQUIRE US TO GO AHEAD AND DEFINITELY
4 NOTIFY A LAW ENFORCEMENT AGENCY OF ANY ACTIVITY AFTER THE
5 DATE OF MISSING.

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2: 1 Q AND YOU, TODAY, TALKED TO DETECTIVE ZOELLER
2 FROM THE BEVERLY HILLS POLICE DEPARTMENT, I TAKE IT?

3 A THAT'S CORRECT.

4 Q AND AMONG OTHER PEOPLE, DID DETECTIVE ZOELLER
5 INFORM YOU OF THE FACTS THAT WE HAVE JUST DISCUSSED IN THIS
6 STIPULATION?

7 A YES, HE DID.

8 Q MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.
9 THE COURT: ALL RIGHT.

10 MR. BARENS: THANK YOU, YOUR HONOR.

11
12 CROSS-EXAMINATION

13 BY MR. BARENS:

14 Q GOOD AFTERNOON, MR. PANE.

15 A GOOD AFTERNOON.

16 Q JUST PICKING UP ON THOSE X-RAYS, THOSE X-RAYS
17 ARE OF A LIVE PERSON, ARE THEY NOT?

18 A YES.

19 Q YOU TOLD US THAT BECAUSE OF THE PECULIARITY
20 AND UNIQUENESS OF THE AMOUNT OF DENTAL WORK THAT PERSON
21 HAD EXPERIENCED, THAT YOU COULD BEYOND A REASONABLE DOUBT
22 BE SATISFIED THAT IF YOU WERE TO CHECK THAT SET OF DENTITION
23 AGAINST YOUR PERSON THAT YOU CHECK AGAINST, THAT THAT PERSON
24 YOU COULD MAKE SURE YOU DID NOT HAVE; IS THAT CORRECT, SIR?

25 A WITH THE RECORDS THAT WERE PROVIDED BY THE
26 BEVERLY HILLS POLICE DEPARTMENT, LOOKING AT THESE RECORDS
27 HERE AND MY CHARTING AND MY CODING, I CAN STATE THAT IF THERE
28 WAS A JOHN DOE RECORD THAT CAME IN TO MY DEPARTMENT THAT I

1 WOULD BE ABLE TO GO AHEAD AND MATCH IT UP.

2 Q AND THEREFORE, YOU ARE ABLE TO TELL ME TODAY,
3 SIR, THAT BEYOND A DOUBT IN YOUR MIND YOU HAVE NEVER FOUND
4 A DEAD PERSON WITH THAT IDENTIFICATION IN CALIFORNIA; IS THAT
5 CORRECT, SIR?

6 A ACCORDING TO MY RECORDS, THAT IS CORRECT.

7 Q AND THAT IS BEYOND A DOUBT IN YOUR MIND, IS IT
8 NOT?

9 A I AM NOT SURE IF THERE IS A DEAD BODY OUT THERE
10 NOW THAT THEY HAVE NOT SUBMITTED THE REPORT TO ME ON SO --

11 Q I UNDERSTAND THAT.

12 I AM ASKING YOU TO YOUR KNOWLEDGE, YOU KNOW,
13 AND YOU ARE THE GUY THAT DOES THIS, I SUPPOSE, YOU HAVE TOLD
14 US --

15 A UH-HUH.

16 Q -- TO YOUR KNOWLEDGE, YOU HAVE NEVER FOUND SUCH
17 A DEAD PERSON, HAVE YOU, SIR?

18 A NO, I HAVE NOT.

19 Q THANK YOU.

20 NOW AS I UNDERSTAND THE WAY THIS HAPPENS, SO
21 I AM NOT ANY MORE CONFUSED THAN I NEED BE, THE FIRST THING
22 YOU DO IS YOU GET A REPORT FROM BEVERLY HILLS P.D. THAT YOU
23 RECEIVE AND THEN YOU STAMP AN INDEX, WHICH IS SOME SORT OF
24 A MISSING PERSON'S REPORT; IS THAT SO?

25 A NO, THAT IS NOT CORRECT.

26 Q OKAY, WHAT IS THE FIRST PAPERWORK YOU GET?

27 A THE FIRST PAPERWORK IS AT TIMES THIS PARTICULAR
28 REPORT HERE THAT YOU HAVE A COPY OF.

1 Q YES, THAT IS WHAT I AM TALKING ABOUT.

2 A RIGHT.

3 Q OKAY. AND DOES SOMEONE STAMP THIS INDEX?

4 A THAT IS AFTER ALL OF THE DIFFERENT AREAS THAT
5 I HAVE MENTIONED BEFORE ARE CHECKED.

6 MR. BARENS: OKAY, I DON'T KNOW IF THIS HAS BEEN MARKED,
7 YOUR HONOR, BUT LET'S MARK IT "D," IT IS A MISSING PERSON'S
8 REPORT FORM BEARING DATE OF 6-22-84. IT WILL BE DEFENDANT'S
9 NEXT.

10 THE COURT: ALL RIGHT, THAT WILL BE "D"; IS THAT RIGHT?

11 MR. BARENS: SIR?

12 THE COURT: "D".

13 MR. BARENS: IT IS "D," I BELIEVE, YOUR HONOR.

14 THE COURT: THAT IS RIGHT, THAT IS WHAT I SAID.

15 MR. BARENS: I AM SORRY. I DIDN'T HEAR YOU, YOUR
16 HONOR.

17 THE COURT: YES.

18 MR. BARENS: MAY I PROCEED, YOUR HONOR?

19 THE COURT: YES.

20 MR. BARENS: THANK YOU.

21 Q WAS THIS IN FACT THE FIRST PIECE OF PAPER YOU
22 SAW ABOUT THIS --

23 BY THE WAY, MR. PANE, WHILE YOU ARE LOOKING
24 FOR THAT, YOU CONSIDER YOURSELF A MEMBER OF LAW ENFORCEMENT,
25 DO YOU NOT?

26 A I WORK FOR A LAW ENFORCEMENT AGENCY, YES.

27 Q DO YOU CONSIDER YOURSELF A MEMBER OF LAW
28 ENFORCEMENT?

1 A YES, I DO.

2 Q THANK YOU. JUST CURIOUS.

3 GO RIGHT AHEAD, SIR.

4 THE COURT: NOW DO YOU WANT AN ANSWER TO THE QUESTION?

5 MR. BARENS: YES, I QUITE WELL DO.

6 THE COURT: ALL RIGHT. IS THAT THE FIRST PIECE OF
7 PAPER THAT YOU RECEIVED?

8 THE WITNESS: I AM TRYING TO ESTABLISH IF WE MAY HAVE
9 RECEIVED A TELETYPE PRIOR TO RECEIVING THAT PARTICULAR
10 REPORT.

11 MR. BARENS: IF I COULD APPROACH THE WITNESS, YOUR
12 HONOR. I WANT TO ASK SEQUENCING ON PIECES OF PAPER I DON'T
13 KNOW.

14 THE WITNESS: I WOULD HAVE TO SAY WITH THE RECORDS
15 I HAVE HERE, THAT IS THE FIRST PIECE OF PAPER WE RECEIVED
16 FROM BEVERLY HILLS.

17 Q BY MR. BARENS: THERE IS ANOTHER PIECE OF PAPER
18 HERE, THIS PIECE OF PAPER IS SOMETHING YOU FOLKS GENERATE

19 A UH-HUH, WE DO.

20 MR. BARENS: WE WILL CALL THIS NEXT PIECE OF PAPER,
21 YOUR HONOR, DEFENDANT'S NEXT AND IT APPEARS TO BE A COMPUTER
22 GENERATED PIECE OF PAPER AND IT STARTS OUT WITH -- AT LEAST
23 THE FIRST WORDS ON IT ARE "MISSING PERSON."

24 THE COURT: YES, THAT WOULD BE "E."

25 MR. BARENS: MAY I HAVE JUST ONE MOMENT WITH THE WITNESS?

26 THE COURT: YES.

27 (UNREPORTED COLLOQUY BETWEEN MR. BARENS
28 AND THE WITNESS.)

1 Q BY MR. BARENS: THEREFORE, THE SECOND COMPUTER
2 GENERATED PIECE OF PAPER IS SOMETHING YOU FOLKS PREPARE?

3 A YES.
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1 Q ALL RIGHT. NOW WITH REFERENCE TO THE FIRST PIECE
2 OF PAPER ENTITLED "MISSING PERSON'S REPORT FORM," YOU
3 MENTIONED IN EARLIER TESTIMONY THAT IS THE PHYSICAL DESCRIPTION
4 GIVEN OF LEVIN, SIR?

5 A YES.

6 Q AND THEN HIS NAME AND THEN THE NEXT LINE SAYS
7 "ALIAS?"

8 A THAT'S CORRECT.

9 Q AND WHAT ALIASES DO YOU SEE THERE?

10 A I SEE ROTHSCHILD, RONALD GEORGE AND ALSO
11 GLICK, RONALD GEORGE.

12 Q AND AFTER THAT IT SAYS "MISSING SINCE."

13 A JUNE 6 OF '84.

14 Q WHAT DOES IT SAY RIGHT AFTER THAT?

15 A "AFTER 6:00 P.M."

16 Q SO THE INFORMATION YOU GOT INITIALLY IS THAT
17 AFTER 6:00 P.M. ON JUNE 6, 1984, NOBODY KNOWS WHERE HE
18 IS?

19 A THAT IS CORRECT.

20 Q ALL RIGHT. NOW MOVING AHEAD THERE, WE GET DOWN
21 AND THERE IS SOME IDENTIFICATION BY THE DENTIST, ET CETERA,
22 AND GETTING DOWN TO ABOVE THAT, "LOCATION LAST SEEN" AND
23 IT SAYS WHAT, SIR?

24 A 144 -- I ASSUME THE "S" STANDS FOR SOUTH PECK
25 DRIVE.

26 Q STIPULATE, YES, SIR.

27 AND THEN THE NEXT LINE, IT SAYS "MENTAL CONDITION."

28 A "UPSET," IT SAYS.

1 Q IT SAYS "UPSET," ACTUALLY.

2 ALL RIGHT, NOW I NEED TO LOOK AT HIS COPY BECAUSE
3 I CAN'T READ THE COPY I HAVE GOT.

4 THE COURT: SURELY.

5 (UNREPORTED COLLOQUY BETWEEN MR. BARENS
6 AND THE WITNESS.)

7 Q BY MR. BARENS: YOU IN TURN, SIR, THEN PREPARED
8 THE NEXT PIECE OF PAPER THAT IS THE COMPUTER GENERATED
9 PIECE OF PAPER I REFERENCED?

10 A THAT IS CORRECT.

11 Q ALL RIGHT, THEN A LOT OF WHAT I WILL CALL
12 STATISTICAL, PHYSICAL DATA IS REPEATED ON THERE, IS IT NOT,
13 SIR?

14 A YES, IT IS.

15 Q AND THEN WE COME DOWN TO: IS IT A PRACTICE
16 OF YOU FOLKS TO PUT IN SOME MISCELLANEOUS COMMENTARY THAT
17 YOU HAVE?

18 A THE AGENCY CAN PUT THE MISCELLANEOUS INFORMATION
19 IN THERE, YES.

20 24 FO.

21

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24A-1

1 Q AND YOU DID IT IN THIS INSTANCE?

2 A NO. I HAD NOTHING TO DO WITH THIS ENTRY.

3 Q DOES A PERSON THAT WORKS IN CONJUNCTION WITH
4 YOURSELF DO THAT?

5 A THIS ENTRY WAS MADE BY BEVERLY HILLS POLICE
6 DEPARTMENT.

7 Q AND WHAT DOES THE ENTRY SAY?

8 A ARE YOU TALKING ABOUT THE WORDING FOLLOWING
9 WHERE IT SAYS "MIS/"?

10 Q YES, SIR.

11 MR. WAPNER: OBJECTION, HEARSAY. HE DIDN'T PUT
12 THAT IN THERE. HE DOESN'T KNOW WHERE IT COMES FROM OR
13 THE BASIS FOR IT.

14 THE COURT: I WILL SUSTAIN THE OBJECTION.

15 MR. BARENS: A MOMENT, IF YOU WOULD ON THAT, YOUR
16 HONOR.

17 (PAUSE.)

18 MR. BARENS: YOUR HONOR, MIGHT WE APPROACH ON THE
19 OBJECTION BECAUSE I AM NOT OFFERING IT FOR THE TRUTH?
20 I AM OFFERING IT FOR THE DESCRIPTION THAT THEY ARE GIVING
21 OF THE PERSON THEY ARE LOOKING FOR.

22 THE COURT: ALL RIGHT.

23 MR. BARENS: IT IS ALL HEARSAY ON THIS DOCUMENT,
24 YOUR HONOR.

25 THE COURT: WELL, I THINK THAT WE COULD SAVE MORE
26 TIME BY NOT COMING UP AND HAVING HIM TESTIFY ON IT. GO
27 AHEAD, ANYWAY.

28 MR. BARENS: THANK YOU.

1 Q IF YOU WOULD, SIR, WOULD YOU PLEASE TELL ME
2 THE FACTS AFTER THE WORD "MISCELLANEOUS," THE ABBREVIATED
3 WORD "MIS."

4 WHAT DOES IT SAY THEN?

5 A (READING)

6 "MENTAL CONDITION, AGITATED.

7 WEARS GLASSES. UNDER INVESTIGATION, 12 COUNTS
8 THEFT BY B.H.P.D..."

9 THAT STANDS FOR BEVERLY HILLS POLICE DEPARTMENT.

10 "BURGLAR ALARM IN HOUSE TURNED
11 OFF. BEDDING GONE. MISSING PERSON SAID HE
12 WAS GOING TO NEW YORK BUT CLOTHES AND LUGGAGE
13 IN RESIDENCE. DETECTIVES 550-4955."

14 Q NOW, YOU HAD SOME KIND OF DATA THERE THAT
15 YOU WOULD ASSOCIATE WITH THIS PERSON THAT MIGHT GIVE YOU
16 SOME CLUES TO FOLLOW UP ON?

17 A THAT IS THE WHOLE RECORD, YES.

18 Q NOW, HOW LONG HAVE YOU BEEN DOING WHAT YOU
19 DO WITH THE DEPARTMENT OF JUSTICE, SIR?

20 A I HAVE BEEN WITH THE MISSING AND UNIDENTIFIED
21 PERSONS UNIT SINCE 1979. I TAKE THAT BACK, SORRY. I MADE
22 A MISTAKE. I HAVE BEEN WITH THE DENTAL PROGRAM SINCE
23 1979. I HAVE WORKED MISSING PERSONS SINCE 1979.

24 Q I HAVE BEEN WITH MY DENTAL PROGRAM, TOO.

25 A AND VERY NICE TEETH YOU HAVE.

26 Q I ASKED YOU IF YOU CONSIDERED YOURSELF AN
27 EXPERT ON MISSING PERSONS. I BELIEVE YOU ANSWERED ME
28 IN THE AFFIRMATIVE?

24A-3

1 A I DON'T REMEMBER ANSWERING THAT WAY.

2 Q ALL RIGHT, SIR. HAVE YOU EVER QUALIFIED OR
3 TESTIFIED IN COURT BEFORE ABOUT MISSING PERSONS?

4 A YES, I HAVE.

5 Q YOU HAVE DONE SO ON NUMEROUS OCCASIONS, SIR?

6 A YES, SIR.

7 Q HAVE YOU EVER COME INTO COURT, CALLED AS AN
8 EXPERT WITNESS BY A PROSECUTING AGENCY?

9 A I AM A LITTLE CONFUSED ABOUT THE WORD "EXPERT"
10 WITNESS. I HAVE BEEN CALLED TO TESTIFY AT TIMES, TO TESTIFY
11 LIKE I AM HERE. BUT I HAVE NEVER BEEN REALLY STIPULATED
12 BY THE COURT AS AN EXPERT.

13 Q LET ME ASK YOU SOMETHING. DO YOU KNOW A LOT
14 ABOUT MISSING PERSONS?

15 A AFTER THAT MANY YEARS, I ASSUME THAT I DO.
16 YES, SIR.

17 Q I QUITE WELL AGREE THAT YOU DO.

18 NOW, WE HAVE FOUND THAT OUT.

19 MR. WAPNER: MAY WE APPROACH THE BENCH? I ASSUME
20 THAT THE NEXT QUESTION IS GOING TO ASK HIM FOR SOME KIND
21 OF AN OPINION. BEFORE WE --

22 MR. BARENS: ARE YOU GOING TO SAY YOUR WITNESS DOESN'T
23 QUALIFY FOR AN OPINION?

24 MR. WAPNER: WELL, I DON'T KNOW WHAT KIND OF OPINION
25 YOU ARE SEEKING.

26 THE COURT: WELL, LET'S HEAR THE QUESTION. THEN
27 IF YOU OBJECT TO IT --

28 MR. WAPNER: WELL, I WAS ATTEMPTING TO HEAR THE

24A-4

1 QUESTION BEFORE THE JURY DOES BECAUSE SOMETIMES IT IS
2 NOT THE ANSWER THAT IS IMPORTANT, ONLY THE QUESTION.

3 THE COURT: THAT'S RIGHT, TOO. ALL RIGHT. COME
4 TO THE BENCH.

5 (THE FOLLOWING PROCEEDINGS WERE HELD
6 AT THE BENCH:)

7 MR. BARENS: ALL RIGHT. I AM GOING TO ASK HIM IN
8 HIS EXPERIENCE HOW MANY OF THE MISSING PEOPLE HE HAS HAD
9 TO DO WORK ON, WHAT PERCENTAGE OF THEM WERE PEOPLE ON
10 BAIL.

24A-5

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24A-5

1 THE COURT: ON WHAT?

2 MR. BARENS: ON BAIL.

3 THE COURT: WELL, I WILL SUSTAIN THE OBJECTION.

4 MR. WAPNER: THAT IS NOT THE SUBJECT OF AN EXPERT
5 OPINION.

6 THE COURT: THAT IS NOT A QUESTION YOU SHOULD ASK.

7 MR. BARENS: WHY NOT, SIR?

8 THE COURT: I AM TELLING YOU, BECAUSE I SAY SO.

9 MR. BARENS: I REALIZE THAT.

10 THE COURT: THAT IS THE RULING I AM MAKING. I DON'T
11 HAVE TO GIVE YOU ANY REASONS WHY I AM MAKING THE RULINGS
12 I DO.

13 MR. BARENS: NO, SIR.

14 THE COURT: TELL HIM TO STOP INTERRUPTING WHEN I
15 AM TALKING TO YOU.

16 MR. BARENS: YES, YOUR HONOR. I WOULD JUST LIKE
17 TO BETTER UNDERSTAND THAT.

18 THE COURT: YOU DON'T HAVE TO BETTER UNDERSTAND
19 IT. THE QUESTION THAT YOU ARE GOING TO ASK, AN OBJECTION
20 IS BEING MADE TO IT AND I WILL SUSTAIN IT.

21 I HAVE SUSTAINED THE OBJECTION.

22 MR. BARENS: YOUR HONOR, COULD I SPEAK TO YOUR HONOR
23 FOR A MOMENT, PLEASE?

24B FO.

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24B-1

1 THE COURT: I HAVE SUSTAINED THE OBJECTION. IS
2 THERE SOME OTHER QUESTION YOU WANT TO TALK TO ME ABOUT?

3 MR. BARENS: YES.

4 THE COURT: WHAT?

5 MR. BARENS: WELL, AS PART OF THE DEFENSE CASE IN
6 THIS, WE ARE GOING TO HAVE SOME EXPERT TESTIMONY ABOUT
7 MISSING PERSONS.

8 THE COURT: YES?

9 MR. BARENS: AND PART OF THE TESTIMONY THAT WE SEEK
10 TO GENERATE WILL CONFIRM STATISTICS THAT THE F.B.I., FOR
11 INSTANCE, MAINTAINS, CERTAIN STATISTICAL SURVEYS THROUGHOUT
12 THE UNITED STATES ON MISSING PERSONS WHICH --

13 MR. WAPNER: WELL, THEN I WILL MAKE A MOTION IN
14 LIMINE BEFORE WE HAVE THESE EXPERTS. WE WILL HAVE A 402
15 HEARING BEFORE THEY ARE PUT BEFORE THE JURY BECAUSE I
16 AM NOT SURE THAT THAT IS AT ALL A PROPER SUBJECT BEFORE
17 THE JURY.

18 THE COURT: I WILL SUSTAIN THE OBJECTION AT THIS
19 POINT. LET'S GET ON.

20 (THE FOLLOWING PROCEEDINGS WERE HELD IN
21 OPEN COURT IN THE PRESENCE OF THE JURY:)

22 Q BY BARENS: MOVING ALONG, THE FIRST THING
23 YOU DID WAS SOME SORT OF D.M.V. LICENSE CHECK?

24 A THAT'S CORRECT.

25 Q AND DID YOU DO THAT ON RONALD GEORGE LEVIN'S
26 DRIVER'S LICENSE?

27 A THE CLERICAL STAFF WITHIN MY DEPARTMENT DO
28 THAT.

24B-2

1 Q AND SO, YOU DID IT ON THE RONALD GEORGE LEVIN
2 DRIVER'S LICENSE, LOOKING TO SEE IF HE HAD ANY TICKETS
3 OR STUFF LIKE THAT?

4 A THAT'S CORRECT.

5 Q WOULD THAT INCLUDE PARKING TICKETS?

6 A I --

7 Q THE FACT IS, IT DOES NOT, DOES IT, SIR?

8 A I DON'T BELIEVE IT DOES, NO, SIR.

9 Q NO, SIR. IT JUST INCLUDES MOVING VIOLATIONS,
10 DOES IT NOT?

11 A I BELIEVE SO, UNLESS THEY DON'T PAY THE PARKING
12 TICKETS. I AM NOT SURE ON THAT, THOUGH.

13 Q NOW, BY THE WAY, I PRESUME YOU DID THE SAME
14 SORT OF DRIVER'S LICENSE CHECK ON THE ALIASES?

15 A YES, I DID.

16 Q AND WHAT CAME BACK ON THE ALIASES, SIR?

17 A ON RONALD GEORGE GLICK, ACCORDING TO MY RECORDS,
18 THE ALIAS CAME BACK WITH THE SAME RECORD OF RONALD GEORGE
19 LEVIN.

20 Q DID THAT SUGGEST TO YOU THAT MR. LEVIN HAD
21 A DRIVER'S LICENSE IN THAT NAME AS WELL?

22 A NO, IT DOES NOT.

25 FO.

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25 1 Q IT DID NOT?

2 A NO.

3 Q WHAT DID IT SUGGEST TO YOU?

4 A IT SUGGESTS THAT HE IS KNOWN AS RONALD GEORGE LEVIN
5 WITH THE DRIVER'S NUMBER OF C, CHARLES, CALIFORNIA DRIVER'S
6 LICENSE NO. C, CHARLES 3312559, AND THAT SAME NUMBER APPLIES
7 TO RONALD GEORGE GLICK, BECAUSE THEY ARE WITHIN THE SAME
8 RECORD.

9 Q I DON'T QUITE UNDERSTAND WHAT THAT MEANS IN
10 TERMS OF DRIVER'S LICENSES --

11 MR. WAPNER: IS THAT A QUESTION?

12 MR. BARENS: YES.

13 I DON'T UNDERSTAND WHAT THAT MEANS, SIR.

14 THE COURT: WELL, WILL YOU EXPLAIN IT TO HIM SO HE
15 WILL UNDERSTAND IT?

16 THE WITNESS: IT IS JUST LIKE A WOMAN WHO HAD GOTTEN
17 MARRIED, SHE HAS A DRIVER'S LICENSE UNDER HER MARRIED NAME
18 AND THE A.K.A. WOULD STILL BELONG TO THAT SAME DRIVER'S
19 LICENSE NUMBER, SHOWING HER MAIDEN NAME.

20 Q BY MR. BARENS: I SEE. THEN THIS WOULD BE AN
21 A.K.A., AN ALSO KNOWN AS FOR MR. LEVIN?

22 A THAT'S CORRECT.

23 Q THAT HE WOULD HAVE USED FOR SOME SORT OF
24 IDENTIFICATION PURPOSES?

25 A HE COULD HAVE USED THAT IF IT DID APPEAR ON THE
26 DRIVER'S LICENSE ITSELF.

27 Q RIGHT.

28 NOW HOW ABOUT MR. ROTHSCHILD?

1 A OKAY, THERE WAS A RECORD FOR A
2 RONALD GEORGE ROTHSCHILD, BUT THE DATE OF BIRTH WAS DIFFERENT
3 FROM THE ONE WE HAD FOR MR. LEVIN A.K.A. GLICK.

4 Q AND WHAT DID YOU FIND OUT ABOUT THE ROTHSCHILD
5 DRIVER'S RECORD?

6 A THE LAST TYPE OF ACTIVITY WAS 11-6TH OF '76
7 AND THE PHYSICAL DESCRIPTION WAS FAR FROM BEING THE SAME
8 AS MR. LEVIN'S.

9 Q SO YOU COULDN'T FIND ANY DRIVER'S LICENSE AT
10 LEAST FOR MR. ROTHSCHILD?

11 A THAT'S CORRECT.

12 Q DID YOU EVER HAVE CONTACT WITH ANYBODY AT
13 B.H.P.D. ABOUT ANY OTHER ALIASES MR. LEVIN HAD?

14 A NO. JUST AS FAR AS MY MEMORY SERVES ME,
15 JUST WHAT WE HAVE HERE ON THE RECORD.

16 Q SO NO ONE ASKED FOR YOU TO CHECK FOR ANY
17 DRIVER'S LICENSES UNDER R. MICHAEL WEATHERBY?

18 A ACCORDING TO MY RECORD, NO, SIR.

19 Q DR. PRESLEY REED?

20 A NO, SIR.

21 Q OLIVER HOLMES?

22 A OLIVER HOLMES, WENDELL?

23 (LAUGHTER IN COURTROOM.)

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25A-1

1 Q BY MR. BARENS: WENDELL IS LONG GONE. I AM NOT
2 SURE ABOUT --

3 A NO, SIR.

4 Q ALL RIGHT. ACTUALLY, I AM GOING TO STAND
5 CORRECTED. IT IS OLIVER WENDELL HOLMES, COUNSEL REMINDS
6 ME.

7 SO YOU DIDN'T CHECK ANY OF THOSE NAMES, IN
8 FACT, DID YOU?

9 A NO, SIR.

10 THE ONLY NAMES WE DID CHECK WAS WHAT IS IN
11 THE REPORT THAT YOU HAVE.

12 Q OKAY. WELL, SO FIRST YOU CHECKED THE DRIVER'S
13 LICENSE AND FOUND NOTHING.

14 NOW YOU DID SOME CRIMINAL RECORD CHECKING,
15 RIGHT?

16 A THAT'S CORRECT.

17 Q AND WHAT IS THE FIRST EVIDENCE OF CRIMINAL
18 RECORD YOU FOUND?

19 MR. WAPNER: OBJECTION. RELEVANT AND ALSO HEARSAY,
20 YOUR HONOR.

21 MR. BARENS: OH, IT IS GOING TO BE RELEVANT. THE
22 D.A. LED HIM THROUGH THIS.

23 THE COURT: ALL RIGHT, GO AHEAD.

24 WE KNOW ALL ABOUT THAT CRIMINAL RECORD, DON'T
25 WE?

26 MR. BARENS: I KNOW. I JUST LIKE EQUAL TREATMENT.

27 THE COURT: IF YOU WANT TO REPEAT IT, REPEAT IT.
28 THE JURY UNDERSTANDS NOW HE HAS A CRIMINAL RECORD.

25A-2

1 MR. BARENS: YOUR HONOR IS GOING TO SEE SOMETHING
2 VASTLY DIFFERENT, THIS TIME IF I GET THE OPPORTUNITY.

3 THE COURT: ALL RIGHT, LET'S SEE SOMETHING VASTLY
4 DIFFERENT, TELL US ABOUT IT.

5 MR. WAPNER: THE OBJECTION IS ON THE GROUNDS OF
6 RELEVANCY AS TO WHAT THE SPECIFICS ARE OF THE PAST CRIMINAL
7 RECORD.

8 MR. BARENS: THE RELEVANCY --

9 MR. WAPNER: WHAT IS THE RELEVANCY OF THIS WITNESS --

10 THE COURT: ALL RIGHT, WELL GO AHEAD, WITH WHATEVER
11 IT IS.

12 MR. BARENS: OKAY, WE WILL SEE IF WE FIND SOMETHING
13 HERE OR NOT.

14 THE WITNESS: COULD YOU REPEAT THE QUESTION AGAIN?

15 MR. BARENS: YES.

16 WHAT IS THE FIRST THING YOU FIND ABOUT PRIOR
17 CRIMINAL RECORD?

18 A FIRST ENTRY ON HIS CRIMINAL RECORD IS 6-8
19 OF 1970, BEVERLY HILLS POLICE DEPARTMENT.

20 Q 1970?

21 A YES, SIR.

22 Q AND WHAT DID THAT SHOW US?

23 A THAT SHOWS A WARRANT FOR A GRAND THEFT PROPERTY.

24 Q OKAY. WHAT IS THE NEXT THING YOU FIND?

25 A THE NEXT THING I FIND ON HIS RECORD IS DATED
26 7-30 OF '70, POLICE DEPARTMENT, LOS ANGELES.

27 MR. WAPNER: YOUR HONOR, I WOULD ASK TO APPROACH
28 THE BENCH, PLEASE, YOUR HONOR.

1 MR. BARENS: YOUR HONOR --

2 MR. WAPNER: MAY WE APPROACH THE BENCH?

3 THE COURT: I DON'T KNOW WHAT THIS HAS TO DO WITH A
4 MISSING PERSONS REPORT.

5 MR. BARENS: A LOT, YOUR HONOR.

6 MR. WAPNER: IT IS ALSO IRRELEVANT. COUNSEL KNOWS
7 THAT IF THERE ARE ENTRIES THAT HAVE TO DO WITH THINGS
8 THAT ARE NOT CONVICTIONS, THEY ARE INADMISSIBLE AND I
9 WOULD ASK PLEASE TO APPROACH THE BENCH.

10 THE COURT: I WILL SUSTAIN THE OBJECTION.

11 MR. BARENS: YOUR HONOR --

12 THE COURT: I WILL SUSTAIN THE OBJECTION. LET'S
13 GO ON.

14 MR. BARENS: LET ME ASK HIM SPECIFICALLY, OKAY?

15 THE COURT: YOU DON'T HAVE TO ASK ANYTHING ABOUT
16 ANYTHING ELSE UNLESS THERE IS A CONVICTION.

17 MR. BARENS: I KNOW THERE IS A CONVICTION THAT IS
18 NOT THERE AND I AM GOING TO FIND OUT ABOUT THAT, YOUR
19 HONOR.

20 THE COURT: HOW DO WE KNOW THAT?

21 MR. BARENS: YOU SEE, THE PROBLEM --

22 MR. WAPNER: MAY WE APPROACH THE BENCH FOR AN OFFER
23 OF PROOF?

24 THE COURT: YES, MAKE AN OFFER OF PROOF, WILL YOU?

25 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE
26 HELD AT THE BENCH:)

27 MR. BARENS: YOUR HONOR, THE INTERESTING THING YOU
28 ARE GOING TO SEE HERE IS THAT THEY HAVE NO RECORD THAT

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THAT SHOWS OF THE FELONY CONVICTION.

MR. WAPNER: WHICH FELONY CONVICTION?

MR. BARENS: THE '79 --

7593

1 THE COURT: DOES IT SHOW THAT?

2 MR. WAPNER: THIS PARTICULAR RECORD DOESN'T SHOW
3 IT BECAUSE THAT IS BECAUSE THERE WAS A FEDERAL CONVICTION
4 AND THAT IS WHY IT IS NOT ON THIS RECORD.

5 MR. BARENS: YOUR HONOR, WHY IT DOESN'T SHOW, I
6 SUBMIT AS AN OFFER OF PROOF, WAS THAT LEVIN WAS SOPHISTICATED
7 ENOUGH TO WIRE THE RECORD.

8 THE COURT: I THINK THIS WHOLE LINE OF INQUIRY IS
9 COMPLETELY WORTHLESS AND USELESS AND I AM GOING TO SUSTAIN
10 THE OBJECTION.

11 MR. BARENS: MAY I MAKE AN OFFER OF PROOF?

12 THE COURT: YOUR OFFER OF PROOF IS THAT IT DOESN'T
13 SHOW THAT HE HAD A RECORD IN 1979 IN FEDERAL COURT, IS
14 THAT YOUR OFFER OF PROOF?

15 MR. BARENS: AND THE ONLY PURPOSE --

16 THE COURT: I DON'T HAVE TO HAVE YOUR PURPOSE.

17 IF THAT IS YOUR OFFER OF PROOF, I AM GOING
18 TO REJECT IT.

19 LET'S GET ON NOW, WILL YOU?

20 MR. BARENS: THANK YOU, YOUR HONOR.

21 THE COURT: YOU HAVE ALREADY DEMONSTRATED A LOT
22 OF THINGS ABOUT THIS MAN. HE WAS A CON ARTIST. HE WAS
23 A CROOK. HE WAS A THIEF. AND HE SAID SO HIMSELF. YOU
24 DON'T HAVE TO LAY IT ON AND LAY IT ON AND LAY IT ON. IT
25 IS A WASTE OF TIME.

26 MR. BARENS: YOUR HONOR, I BEG YOUR PARDON.

27 THE COURT: IT DOESN'T EXCUSE ANY KIND OF CONDUCT
28 OF YOUR CLIENT IF HE COMMITTED ANY ACT --

1 MR. BARENS: YOU SAY IF HE COMMITTED ANY ACT?

2 THE COURT: I SAID IF HE COMMITTED ANY ACT.

3 MR. BARENS: ANOTHER FACET IS, IF HE IS SOPHISTICATED
4 ENOUGH TO DOCTOR THESE RECORDS --

5 THE COURT: HE DOCTORED THEIR RECORDS? COME ON
6 NOW. THAT IS NONSENSE. LET'S GET ON, WILL YOU?

7 MR. BARENS: WE WILL SHOW IT ON THE DEFENSE CASE.

8 THE COURT: THAT IS NONSENSE, THAT HE DOCTORED THE
9 RECORDS.

10 MR. BAREN: LET'S SEE WHAT IT SHOWS.

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26A-1

1 (THE FOLLOWING PROCEEDINGS WERE
2 HELD IN OPEN COURT:)

3 Q BY MR. BARENS: NOW, IF MR. LEVIN HAD BEEN ARRESTED
4 DURING THE PERIOD OF TIME THAT YOU WERE SEARCHING FOR HIM
5 AND HE WAS CARRYING OTHER IDENTIFICATION, IS IT YOUR
6 UNDERSTANDING THAT YOU WOULD HAVE PICKED THAT UP?

7 A YES, SIR.

8 Q IT WOULD BE PICKED UP THROUGH THE FINGERPRINTS?

9 A THAT'S RIGHT.

10 Q YOU TOLD ME EARLIER ON THAT, YOU DIDN'T ENTER
11 HIS FINGERPRINTS INTO THE SYSTEM UNTIL A CERTAIN POINT IN
12 TIME?

13 A HIS FINGERPRINTS ARE STILL NOT ENTERED INTO THE
14 SYSTEM.

15 Q WELL, IF HIS FINGERPRINTS WEREN'T IN THE SYSTEM --

16 A INTO THE N.C.I.C. SYSTEM. I WANT TO CLARIFY
17 THAT.

18 Q THAT IS WHY I AM CONFUSED BECAUSE IF THEY ARE
19 NOT IN, HOW DO YOU MATCH THEM?

20 A THE N.C.I.C. SYSTEM IS A SYSTEM COMPLETELY
21 DIFFERENT FROM OUR SYSTEM WITHIN CALIFORNIA. YOU BASICALLY
22 HAVE TWO SEPARATE FILES THERE.

23 THE RECORD HERE IN CALIFORNIA, AS I RELATED
24 EARLIER, IS A C.I.&I. FOLDER WITH AN ESTABLISHED NUMBER.

25 THAT FOLDER IS ESTABLISHED BY A SET OF
26 FINGERPRINTS, EITHER THROUGH AN APPLICATION THAT HAS BEEN
27 SUBMITTED OR THROUGH AN ARREST PRINT. ANY OTHER ENTRY ON
28 THAT INDIVIDUAL'S RAP SHEET CAN ONLY BE DONE THROUGH THE

1 SUBMISSION OF ANOTHER SET OF FINGERPRINTS. OKAY?

2 THE N.C.I.C. ENTRY, DID NOT HAVE FINGERPRINT
3 CLASSIFICATIONS. ONE OF THE REASONS WHY I STATED WE DIDN'T
4 PUT THAT ON, WAS BECAUSE WE FELT IT WAS NOT THAT IMPORTANT,
5 NUMBER ONE.

6 AND NUMBER TWO, WE DIDN'T HAVE THE PERSONNEL.
7 THE REASON WHY IT IS NOT THAT IMPORTANT IS BECAUSE ALL YOU
8 HAVE IS A BUNCH OF NUMBERS. YOU DON'T HAVE THE ACTUAL SET
9 OF FINGERPRINTS IN FRONT OF YOU FOR A VERIFICATION, AS WOULD
10 BE IN OUR SYSTEM, HERE IN CALIFORNIA.

11 SOMEONE COULD HAVE THE SAME TYPES OF
12 FINGERPRINT CLASSIFICATIONS BUT UNLESS YOU HAVE THE PRINTS
13 IN FRONT OF YOU TO MAKE A POSITIVE, THEN IT IS NO GOOD.

14 Q SO WE HAD CHECKED FOR ARRESTS AND WE HAD CHECKED
15 FOR A CALIFORNIA DRIVER'S LICENSE, IS THAT CORRECT?

16 A THAT'S CORRECT.

17 Q NOW, DID YOU DO ANY OUT OF STATE CHECKING?

18 A I DON'T SEE WHERE I DID, NO.

19 Q OKAY. SO ACTUALLY, YOU CAN'T HELP ME AT ALL
20 AS TO ANYTHING CONCERNING ANYTHING OTHER THAN THE STATE OF
21 CALIFORNIA?

22 A THAT'S CORRECT.

23 Q DO FEDERAL CONVICTIONS SHOW ON THE C.I.&I.
24 RAP SHEET?

25 A I BELIEVE NO.

26 Q THEY DO NOT?

27 A NO.

28 Q NOW, DID YOU DO ANY CHECKING ON MR. LEVIN'S

26 -
1 PASSPORT?

2 A NO, SIR. I DID NOT.

3 Q AND DID YOU DO ANY CHECKING ON BANK ACCOUNTS?

4 A NO, SIR. WE DO NOT.

5 Q DO YOU DO ANY CHECKING ON APPLICATIONS FOR
6 LICENSES, OTHER THAN DRIVER'S LICENSES?

7 A THAT WOULD HAVE BEEN DONE THROUGH THE CRIMINAL
8 HISTORY CHECK BECAUSE IF HE WAS FINGERPRINTED FOR ANY
9 APPLICATION, IT WOULD HAVE BEEN INSIDE THAT FOLDER, THE
10 C.I.&I. FOLDER.

11 Q YOU ARE ANSWERING ME THAT YOU DID. I GUESS YOUR
12 ANSWER IS YES, TO THAT ONE?

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21 1 A ON THOSE PARTICULAR JOBS WHERE ONE HAS TO BE
2 FINERPRINTED, YES.

3 Q DID YOU DO ANY CHECKING ON GRANTOR GRANTEE INDEXES,
4 TITLE TRANSFERS?

5 A NO. THE ONLY CHECK I DID WAS THE ONES I TOLD
6 MR. WAPNER AND YOU.

7 Q JUST THOSE?

8 A YES.

9 Q SO, YOU DID NO FINANCIAL INQUIRIES OR REAL
10 PROPERTY INQUIRIES OR FOR INSTANCE, UNIFORM COMMERCIAL CODE
11 "INQUIRIES" OF ANY KIND?

12 A I REPEAT SIR, THE ONLY CHECKS WE DID MAKE WERE
13 THE ONES THAT I TOLD MR. WAPNER AND YOU ABOUT.

14 Q PRESUMABLY THEN, THE ANSWER TO MY QUESTION, IS
15 NO?

16 A THAT'S CORRECT.

17 Q DO YOU FOLKS HAVE ANY FACILITY CHECK ANY SORT
18 OF HOSPITAL ENTRIES OR EXITS?

19 A WE HAVE THE CAPABILITY OF CHECKING ON THE MENTAL
20 HEALTH WARDS, STATE MENTAL HEALTH.

21 Q HOW ABOUT EMERGENCY HOSPITALS?

22 A NO. WE LEAVE THOSE TYPES OF THINGS UP TO THE
23 INVESTIGATING LAW ENFORCEMENT AGENCY, WHICH WOULD BE THE
24 BEVERLY HILLS POLICE DEPARTMENT.

25 Q YOU MAKE NO INQUIRY IN THAT REGARD?

26 A NO.

27 Q DID YOU MAKE ANY INQUIRY INTO MEXICO?

28 A NO.

26 1 Q CANADA?

2 A N.C.I.C., THE NATIONAL CRIME INFORMATION COVERS
3 CANADA.

4 Q DID YOU MAKE A SPECIFIC INQUIRY IN THAT REGARD,
5 SIR?

6 A NO, I DID NOT.

7 Q DID YOU COME INTO POSSESSION OF A PHOTOGRAPH OF
8 MR. LEVIN?

9 A I BELIEVE I DID.

10 Q AND WHAT CIRCULATION DID YOU GIVE THAT PHOTOGRAPH?

11 A IT STAYS WITHIN OUR DEPARTMENT, WITHIN OUR
12 RECORD.

13 Q YOU DIDN'T CIRCULATE THE PHOTOGRAPH AT ALL, SIR?

14 A NO.

15 MR. BARENS: A MOMENT, YOUR HONOR?

16 (PAUSE.)

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1 Q BY MR. BARENS: SIR, THE SENSE I GET FROM THE
2 TYPE OF THINGS YOU FOLKS DO, APPEARS TO ME TO BE PASSIVE
3 IN NATURE. IN OTHER WORDS, UNLESS SOMETHING FALLS IN AND
4 CREATES A HIT ON YOU, YOUR AGENCY DOESN'T SEEM TO GO OUT AND
5 DO SOMETHING ACTIVE IN THE FIELD TO FIND PEOPLE.

6 A WE NORMALLY CONDUCT OUR WORK FROM WITHIN THE
7 DEPARTMENT, RIGHT.

8 Q SO IN OTHER WORDS, IF SOMETHING DOESN'T RUN
9 INTO YOUR SYSTEM, YOU DON'T SEEM TO PICK UP ON IT? DO YOU
10 SEE WHAT I MEAN BY A DESCRIPTIVE WORD OF BEING PASSIVE
11 RATHER THAN ACTIVE, OUT THERE LOOKING FOR PEOPLE?

12 A IN THAT SENSE, YES.

13 Q AND SO MY STATEMENT WOULD BE, AT LEAST FROM
14 A GENERALIZED SENSE, IT IS ACCURATELY DESCRIPTIVE OF WHAT
15 THIS SYSTEM'S APPROACH IS, THAT YOU FOLKS HAVE?

16 A YES.

17 Q AND IS THERE AN AGING PROCESS THAT YOU DO ON
18 MISSING PERSONS? IN OTHER WORDS, THAT A FILE STAYS ACTIVE
19 OR STAYS UP ON YOUR LIST FOR A PERIOD OF TIME AND IS THEN
20 RETIRED OR WHATEVER?

21 A THE CASE STAYS ACTIVE IN OUR FILES UNTIL THE
22 LAW ENFORCEMENT AGENCY WISHES IT TO BE CANCELLED.

23 Q SO, YOU DON'T HAVE SOME SORT OF A THING THAT
24 SAYS THAT AFTER A CERTAIN PERIOD OF YEARS OR WHATEVER, WE
25 RETIRE THAT FILE?

26 A NO, WE DON'T.

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27-1

1 Q HOW MANY MISSING PERSONS FILES DO YOU BELIEVE
2 THAT YOUR DEPARTMENT HAS AT THIS POINT IN TIME?

3 A TO THE BEST OF MY KNOWLEDGE, WE HAVE APPROXIMATELY
4 3,500 MISSING JUVENILES AND ADULTS ON FILE.

5 Q YOUR STATEMENT WAS JUVENILES AND ADULTS?

6 A THAT'S CORRECT.

7 Q YOU INTERFACE, DO YOU NOT, WITH THE F.B.I.
8 IN YOUR ACTIVITIES?

9 A THROUGH THAT N.C.I.C., CORRECT.

10 Q AND IS IT YOUR UNDERSTANDING THAT THE F.B.I.
11 HAS A SPECIALIZED DEPARTMENT FOR MISSING PERSONS THAT
12 IS ANALOGOUS TO YOUR DEPARTMENT?

13 A NOT THAT I AM AWARE OF.

14 Q YOU ARE NOT FAMILIAR WITH THE F.B.I. HAVING
15 ANY SPECIALIZED AGENTS THAT ARE INVOLVED WITH MISSING
16 PERSONS?

17 A NOT SPECIALIZED IN MISSING PERSONS, NO.
18 THEY ARE MANDATED BY FEDERAL LAW TO DO CERTAIN
19 THINGS.

20 Q AND YOU HAVE SOME INTERFACING WITH THEM?

21 A WE HAVE CONTACT WITH THEM OCCASIONALLY, YES.

22 Q DID YOU IN THIS INSTANCE?

23 A NO, WE DID NOT.

24 MR. BARENS: THANK YOU, SIR.

25 THE COURT: ANY REDIRECT?

26 MR. WAPNER: JUST BRIEFLY.

27 COUNSEL, DO YOU HAVE THE DOCUMENTS YOU MARKED
28 AS EXHIBITS, PLEASE?

1 MR. BARENS: YES. WE HAVEN'T MARKED THEM YET.

2 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

3
4 REDIRECT EXAMINATION

5 BY MR. WAPNER:

6 Q SHOWING YOU THE DOCUMENT THAT HAS BEEN MARKED
7 AS DEFENDANT'S D FOR IDENTIFICATION, WHAT DOCUMENT IS
8 THAT?

9 A THAT IS A COPY OF THE N.C.I.C. ENTRY.

10 Q AND WHERE DOES THE INFORMATION THAT IS ON
11 THAT DOCUMENT -- WILL YOU HOLD IT UP JUST GENERALLY SO
12 THE JURY CAN SEE IT?

13 WHERE DOES THE INFORMATION ON THAT DOCUMENT
14 COME FROM?

15 A THE INFORMATION HERE COMES FROM THE BEVERLY --
16 IN THIS PARTICULAR SITUATION, THE BEVERLY HILLS POLICE
17 DEPARTMENT. THEY ARE THE ONES THAT ARE RESPONSIBLE FOR
18 ENTERING THIS INFORMATION INTO N.C.I.C.

19 Q AND YOU DON'T KNOW WHERE THEY GOT THAT INFORMATION
20 FROM?

21 A NO, I SURE DON'T.

22 Q THE DENTAL RECORDS THAT YOU GOT THAT WERE
23 PURPORTEDLY FROM MR. LEVIN, DID YOU DO ANYTHING TO TRY
24 TO VERIFY THAT THOSE WERE HIS RECORDS?

25 A WHAT I DO IS I CALL THE DENTIST AND I VERIFY
26 ALL OF THE INFORMATION THAT I HAVE ON EACH MISSING PERSON'S
27 DENTAL RECORDS THAT I RECIEVE. AND AT THAT POINT IN TIME,
28 IF THERE WAS ANY DISCREPANCY AS TO WHETHER OR NOT THEY

1 WERE MR. LEVIN'S DENTAL RECORDS, I WOULD HAVE FOUND OUT
2 THEN. SO I ASSUME THAT NO, THESE ARE THE CORRECT RECORDS
3 ON MR. LEVIN.

4 Q DO YOU GET A COPY OF THE DENTAL RECORDS AND
5 A COPY OF THE X-RAYS?

6 A I GET A COPY OF THE DENTAL CHART AND A COPY
7 OF THE DENTAL X-RAYS.

8 Q WHEN YOU TALKED TO THE DENTIST, WERE YOU LOOKING
9 AT THE X-RAYS AND TALKING TO HIM ABOUT THEM?

10 A I CAN ONLY ASSUME, YES, IN THIS PARTICULAR
11 SITUATION.

12 Q WHY IS THAT?

13 A BECAUSE I HAVE THE DENTAL X-RAYS HERE.

14 Q AND DO YOU HAVE SOME NOTATION THAT YOU IN
15 FACT DID TALK TO THE DENTIST?

16 A YES, SIR.

17 Q AND WHAT IS THAT?

18 A IT IS THE DATE WHICH I HAVE ON THE BACK OF
19 THE CHART. I HAVE A SPECIFIC DATE, WHICH IS DATED 1-20 OF
20 '84, AND THAT INDICATES TO ME THAT --

21 Q 1-20 OF '84?

22 THE COURT: '84?

23 THE WITNESS: YES. THAT DATE INDICATES TO ME THAT,
24 NUMBER ONE, I DID IN FACT TALK TO THE DENTIST AND DISCUSS
25 THE DENTAL RECORDS.

26 AND NUMBER TWO, THAT ALSO STATES THE LAST
27 TIME THAT MR. LEVIN HAD SEEN THAT PARTICULAR DENTIST.

28 Q BY MR. WAPNER: ALL RIGHT. BUT YOU DIDN'T

1 GET THE MISSING PERSON'S REPORT UNTIL JULY OF '84, RIGHT?

2 A THAT'S CORRECT.

3 Q WELL, IF YOU DIDN'T GET THE REPORT UNTIL JULY,
4 HOW COME YOU WOULD HAVE TALKED TO HIM IN JANUARY?

5 A THIS DAY --

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1 THE COURT: DID YOU MAKE A MISTAKE IN THE DATE?
2 YOU SAID, JANUARY OF 1984.

3 THE WITNESS: RIGHT. WHENEVER I WRITE THAT DATE
4 DOWN OR WHATEVER DATE IT WAS, THAT INDICATES TO ME THAT
5 IS NOT THE DATE I TALKED TO THE DENTIST BUT THAT INFERS
6 TO ME THAT, NUMBER ONE, I DID TALK TO A DENTIST.

7 BUT MORE IMPORTANTLY, IT INDICATES TO ME THAT
8 THAT IS THE DATE THE MISSING PERSON WAS LAST SEEN BY THE
9 DENTIST.

10 THE COURT: OH, ALL RIGHT.

11 THE WITNESS: OKAY? I DON'T PUT A DATE ON THAT
12 THAT I DID THE X-RAY CHARTING.

13 Q BY MR. WAPNER: BUT THE CONVERSATION YOU HAD
14 WITH THE DENTIST IS THAT YOU WERE LOOKING AT THE X-RAYS
15 AND APPARENTLY THE DENTIST WAS LOOKING AT THE X-RAYS?

16 A I CAN ASSUME SO, YES.

17 Q DO YOU REMEMBER DISCUSSING THEM WITH HIM?

18 A NO, I CAN'T.

19 Q WHY DO YOU SAY YOU ASSUME THAT YOU DISCUSSED
20 THEM WITH HIM?

21 A FROM PAST EXPERIENCE, THE ONLY WAY THAT YOU
22 CAN CALL UP A DENTIST AND TALK TO THEM ABOUT THE RECORDS
23 AND THAT WE CAN MAKE SURE THAT WE HAVE THE RECORDS SO
24 THAT HE CAN QUALIFY OR CLARIFY ANY QUESTIONS I HAVE, HE
25 MUST HAVE THE RECORDS IN FRONT OF HIM ALSO.

26 Q IF MR. LEVIN HAD GOTTEN STOPPED FOR A TRAFFIC
27 TICKET AND GIVEN THE NAME OF GLICK INSTEAD OF LEVIN AND
28 THAT HAD -- WOULD THAT SHOW UP AS A HIT ON YOUR SYSTEM
WHEN YOU WERE CHECKING FOR HIM?

1 A THROUGHTTHE DEPARTMENT OF JUSTICE, OUR DEPARTMENT
2 YOU ARE TALKING ABOUT?

3 Q YES.

4 A ANY INQUIRY UNDER THE NAME OF RONALD GEORGE
5 GLICK IT SHOULD HAVE GOT A HIT, YES.

6 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

7
8 RE CROSS-EXAMINATION

9 BY MR. BARENS:

10 Q LET ME UNDERSTAND SOMETHING AKIN TO WHAT YOU
11 LAST WERE ASKED.

12 ISN'T IT TRUE THAT YOUR DEPARTMENT DOESN'T
13 GET INVOLVED ON A TICKET UNLESS THERE IS AN INQUIRY AS
14 TO WHETHER OR NOT THAT PERSON IS A MISSING PERSON THAT
15 WAS STOPPED FOR THE TICKET?

16 A THE ONLY WAY WE WOULD GET INVOLVED, YES, IF
17 THAT PARTICULAR DRIVER'S LICENSE RECORD HAD BEEN FLAGGED
18 BY US, YES.

19 Q RIGHT.

20 AND EVERY TIME A POLICE OFFICER STOPS SOMEONE
21 TO GIVE THEM A TICKET, THEY DON'T CALL YOU GUYS UP, DO
22 THEY?

23 A NO.

24 THEY WILL, AS A MATTER OF RULE, RUN N.C.I.C.
25 AND THAT IS AS FAR AS I KNOW. BUT WE GET NOTIFIED AFTER
26 THE ENTRY HAS BEEN MADE ON TO THE D.M.V. RECORD.

27 Q LET ME ASK YOU SOMETHING: YOU ARE NOT MEANING
28 TO SUGGEST TO THIS COURT, ARE YOU, THAT EVERY PERSON WHO

1 IS GIVEN A TICKET IN THIS STATE, THAT THE POLICE OFFICER
2 OR SOMEBODY THAT HE TURNS HIS TICKET INTO, CALLS YOU GUYS
3 UP AND ASKS YOU IF IT IS A MISSING PERSON?

4 A I HOPE I DID NOT INFER THAT. NO.

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28 1 Q YOU ARE NOT MEANING TO INFER THAT, ARE YOU, SIR?

2 A NO, SIR.

3 THE COURT: HE ANSWERED THE QUESTION BY SAYING IT
4 GOES IN THAT N.C.I.C., IS THAT RIGHT?

5 THE WITNESS: IF THE LAW ENFORCEMENT OFFICER INQUIRES,
6 HE CAN INQUIRE INTO THE N.C.I.C.

7 Q BY MR. BARENS: IF THE LAW ENFORCEMENT OFFICER
8 INQUIRES, IS THAT NOT CORRECT?

9 A YES.

10 MR. BARENS: THANK YOU, SIR.

11

12 FURTHER REDIRECT EXAMINATION

13 BY MR. WAPNER:

14 Q WILL YOU EXPLAIN TO ME THE PROCEDURES THAT YOU
15 FOLLOW WHEN A PERSON GETS A TRAFFIC TICKET AND DOES THE
16 INFORMATION GET INTO THE D.M.V. COMPUTER?

17 A IT IS UP TO THE -- IF IT IS ISSUED AND THE TICKET
18 GOES THROUGH THE NORMAL COURT PROCESS, THEN THE TICKET IS
19 FORWARDED OR THE INFORMATION IS PASSED ONTO THE D.M.V.

20 THEN THEY ENTER THAT INFORMATION ON THAT
21 PARTICULAR INDIVIDUAL'S DRIVER'S LICENSE RECORD. IT WOULD
22 COME UP AGAINST A HIT ON OUR FLAG. AND AT THAT POINT IN
23 TIME, WE WOULD BE NOTIFIED.

24 Q OKAY. LET'S GO THROUGH THAT A LITTLE BIT MORE
25 SLOWLY. WHEN A PERSON GETS A TRAFFIC TICKET --

26 A YES.

27 Q THE POLICE AGENCY WHO GIVES THE TICKET HAS TO --
28 ARE THEY REQUIRED TO NOTIFY THE D.M.V. THAT HE HAS GOTTEN

2: -2
1 A TICKET?

2 A I THINK THROUGH THE COURT PROCESS. I AM NOT
3 SURE.

4 BUT I THINK THROUGH THE COURT PROCESS, ONCE
5 A TICKET IS PROCESSED, THEN THAT INFORMATION ON THAT VIOLATION
6 IS PUT ON THEIR D.M.V. RECORD.

7 Q IT IS PUT ON YOUR D.M.V. RECORD AND MY D.M.V.
8 RECORD?

9 A EVERYONE.

10 Q SO THEY CAN KEEP TRACK OF HOW MANY TICKETS YOU
11 GET?

12 A THAT'S RIGHT.

13 Q IF YOU GET TOO MANY, THEN THEY SUSPEND YOUR
14 LICENSE?

15 A THAT'S CORRECT.

16 Q NOW, ONCE THAT INFORMATION GETS INTO THE D.M.V.
17 COMPUTER, DO YOU HAVE SOME FLAG THAT COMES UP?

18 A IF THEY FLAG IT, YES.

19 Q DID YOU FLAG IT IN THIS CASE?

20 A YES.

21 Q SO IT WAS DONE ON THIS MAN?

22 A THAT MEANS THAT IF THAT PROCESS OCCURS, IF HE
23 IS STOPPED FOR A VEHICLE VIOLATION AND ISSUED A TICKET AND
24 IF THAT TICKET IS THEN PLACED ON HIS DRIVER'S LICENSE RECORD,
25 WE WOULD THEN BE NOTIFIED OF THAT VIOLATION.

26 Q AND WHEN YOU SAY THAT YOU HAVE A FLAG IN THE
27 D.M.V. RECORDS, WHAT DOES THAT MEAN?

28 A THAT MEANS THAT THERE IS -- THAT THAT PARTICULAR

28
1 DRIVER'S LICENSE NUMBER IS MARKED SOMEHOW BY THE D.M.V.
2 COMPUTER SYSTEM SO THAT WHENEVER THERE IS A HIT AGAINST
3 THAT DRIVER'S LICENSE NUMBER, IT AUTOMATICALLY IS ROUTED TO
4 US.

5 Q WHAT DO YOU MEAN "HIT" AGAINST THE DRIVER'S
6 LICENSE NUMBER?

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1 A ANY ACTIVITY ON THAT PARTICULAR DRIVER'S LICENSE
2 NUMBER.

3 Q SUCH AS A TICKET?

4 A THAT'S RIGHT.

5 Q SO IT IS A COMPUTER GENERATED PROCESS?

6 A FOR THE MOST PART, YES.

7 Q AND WHAT HAPPENS IN YOUR OFFICE IF A GUY GOT
8 A TICKET AND THERE WAS A FLAG ON HIS D.M.V. RECORD? WHAT
9 WOULD HAPPEN IN YOUR OFFICE?

10 A AND WE WERE NOTIFIED BY THE D.M.V.?

11 Q RIGHT.

12 A THEN WE WOULD PULL THAT MISSING PERSON'S RECORD
13 AND NOTIFY THE LAW ENFORCEMENT AGENCY THAT THERE WAS AN
14 ACTIVITY ON THAT INDIVIDUAL'S DRIVER'S LICENSE AFTER THE
15 DATE OF THE MISSING AND FORWARD THE INFORMATION THAT WE
16 RECEIVED FROM THE D.M.V. TO THAT LAW ENFORCEMENT AGENCY.

17 Q AND CAN YOU THINK OF ANY REASON THAT THE D.M.V.
18 DOES NOT GET NOTIFIED WHEN A PERSON GETS A TICKET?

19 A IF THE LAW ENFORCEMENT AGENCY IS DOING THEIR
20 DUTY, THEN THEY WOULD BE NOTIFIED. BUT OTHERWISE, NO.

21 MR. WAPNER: THANK YOU. NOTHING FURTHER.

22 MR. BARENS: I DO HAVE ANOTHER INQUIRY. I AM TRYING
23 TO UNDERSTAND --

24 THE COURT: ASK THE QUESTION, WILL YOU PLEASE?

25 MR. BARENS: YES. I WANTED TO PREFACE IT --

26 THE COURT: DON'T GIVE US A LONG INTRODUCTION. JUST
27 ASK THE QUESTION.

28 MR. BARENS: ALL RIGHT.

FURTHER RE-CROSS-EXAMINATION

1
2 BY MR. BARENS:

3 Q IF I WERE IN ARIZONA AND I GOT A TICKET, DOES
4 IT LOOP THROUGH? I MEAN, AN ARIZONA POLICEMAN IN A CITY IN
5 ARIZONA GIVES ME A TICKET. DOES IT LOOP THROUGH THE CALIFORNIA
6 SYSTEM ON SOME AUTOMATIC BASIS?

7 A CAN I ASK YOU A QUESTION TO CLARIFY THIS?

8 Q YES, SIR.

9 A DO YOU HAVE A CALIFORNIA DRIVER'S LICENSE IN
10 THIS SITUATION?

11 Q I WILL DO BOTH. LET'S SAY IN THE FIRST INSTANCE,
12 I HAVE A CALIFORNIA DRIVER'S LICENSE. I GET A LOCAL
13 JURISDICTION TICKET IN, I DON'T KNOW --

14 THE COURT: PHOENIX, ARIZONA.

15 MR. BARENS: PHOENIX, ARIZONA?

16 THE COURT: NOT TUCSON.

17 MR. BARENS: DON'T KNOW, YOUR HONOR. I HAVE NOT
18 INQUIRED. WE'LL SEE.

19 Q BUT, LET'S SAY IT IS PHOENIX, FOR TODAY. WHAT
20 HAPPENS?

21 A THAT IS A PRETTY OPEN-ENDED QUESTION. WHAT
22 HAPPENS?

23 Q WELL, SPECIFICALLY, DOES MY TICKET IN ARIZONA
24 WHICH I PRESUME IS TURNED INTO SOME LAW ENFORCEMENT AGENCY,
25 DOES IT GET ENTERED INTO YOUR SYSTEM AUTOMATICALLY?

26 A IT MAY OR MAY NOT. AT TIMES, AN OUT OF STATE
27 AGENCY WILL SUBMIT THAT TICKET TO THE D.M.V. AT TIMES.

28 Q WHAT SORTS OF TIMES?

A I HAVE COME ACROSS RECORDS WHERE NEVADA OR
OREGON OR WASHINGTON HAVE SUBMITTED TICKETS TO D.M.V.
CALIFORNIA, ON ACCIDENTS AND ON RECKLESS DRIVING TYPES OF
SITUATIONS.

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28B FO.

28 1 Q OKAY. I AM TALKING ABOUT JUST YOUR REGULAR
2 TICKET, YOUR LEFT TURN, RIGHT TURN, FAILURE TO YIELD AT
3 A STOP SIGN, TICKET.

4 A A MOVING VIOLATION?

5 Q YES.

6 A THEY MAY. I DON'T KNOW FOR SURE.

7 Q WHEN YOU SAY THAT THEY MAY, ARE YOU NOT ALSO
8 SAYING TO ME THAT THEY MAY NOT?

9 A THAT'S CORRECT. I AM.

10 Q OKAY. THEREFORE, IF I AM OUT OF STATE AND I GET
11 A TICKET WITH MY CALIFORNIA LICENSE, THERE IS NO NECESSARY
12 CONCLUSION THAT IT IS EVER GOING TO COME THROUGH YOUR
13 SYSTEM, IS THAT CORRECT?

14 A THAT'S CORRECT.

15 MR. BARENS: THANK YOU, SIR.

16 THE COURT: ANYTHING FURTHER, MR. WAPNER?

17 MR. WAPNER: NO.

18 THE COURT: THANK YOU VERY MUCH. THE WITNESS MAY BE
19 EXCUSED. ALL RIGHT. WE'LL TAKE A 15-MINUTE RECESS AT THIS
20 TIME, LADIES AND GENTLEMEN. THE SAME ADMONITION THAT I
21 GAVE YOU PREVIOUSLY APPLIES.

22 (THE JURY EXITS THE COURTROOM.)

23 (THE FOLLOWING PROCEEDINGS WERE
24 HELD AT THE BENCH:)

25 MR. WAPNER: I WOULD LIKE TO POINT OUT NOW THAT WE ARE
26 GOING TO BRING IN SOME WITNESSES FROM NEW YORK.

27 THE COURT: DO YOU WANT THE DEFENDANT BROUGHT IN HERE
28 NOW BEFORE THE JURY, NOT THE DEFENDANT, BUT PITTMAN?

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1 MR. WAPNER: I THINK IT IS PROBABLY APPROPRIATE.

2 THE COURT: WOULD YOU NEED HIM NOW, THIS AFTERNOON?

3 MR. WAPNER: WELL, I THINK THAT THIS ONE WITNESS,
4 I DON'T KNOW HOW LONG IT IS GOING TO TAKE FOR THIS WITNESS.
5 BUT --

6 THE COURT: THIS IS ONE OF THE WITNESSES THAT SAW
7 PITTMAN IN NEW YORK AND YOU WANT HIM OUT HERE?

8 MR. WAPNER: YES.

9 THE COURT: ALL RIGHT. WE'LL HAVE HIM OUT HERE.
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1 MR. WAPNER: THE ONLY QUESTION IS WHETHER THE BAILIFF
2 WANTS HIM TO SIT THERE THE ENTIRE TIME.

3 THE COURT: WELL, YOU WON'T BE VERY LONG. IT WILL BE
4 A QUARTER AFTER BEFORE WE GET STARTED. HE WILL BE SITTING
5 THERE UNTIL 4:30.

6 MR. WAPNER: ALL RIGHT.

7 THE COURT: ALL RIGHT?

8 MR. WAPNER: THAT IS FINE.

9 MR. BARENS: YOUR HONOR --

10 THE BAILIFF: JUDGE, I HAVE A COUPLE OF QUESTIONS FOR
11 YOU.

12 THE COURT: YES?

13 THE BAILIFF: IF MR. PITTMAN IS SEATED OVER HERE --

14 THE COURT: PARDON ME?

15 THE BAILIFF: IF MR. PITTMAN IS SEATED OVER HERE,
16 WE ARE TRYING TO MAKE IT LOOK TO THE JURY LIKE HE IS NOT
17 IN CUSTODY, CORRECT?

18 THE COURT: YES.

19 THE BAILIFF: WHEN HE IS DONE BEING IDENTIFIED, IS
20 HE TO WALK OUT THIS DOOR WITH ME WHILE THE JURY IS STILL
21 THERE?

22 MR. BARENS: NO.

23 THE COURT: NO. WE ARE GOING TO WAIT UNTIL 4:30.

24 THE BAILIFF: I JUST LET HIM STAY THERE FOR AN HOUR?

25 THE COURT: YES, LET HIM SIT THERE FOR AN HOUR, IS
26 THAT ALL RIGHT?

27 THE BAILIFF: WELL, I WAS GOING TO HAVE MY BACK UP
28 DEPUTY WAIT OUT IN THE HALLWAY. I DIDN'T WANT IT TO LOOK

1 ANYTHING DIFFERENT THAN IT HAS SO FAR, WHICH IS JUST ME
2 IN HERE. I WOULDN'T WANT ME AND MY BACK-UP DEPUTY LIKE
3 SITTING ON THE ONE SIDE OF HIM.

4 MR. BARENS: COULDN'T YOU PUT YOUR DEPUTY OUT IN THE
5 HALL NEXT TO THE DOOR THERE?

6 THE COURT: YES.

7 THE BAILIFF: YOU WANT HIM TO STAND OUT THERE FOR A
8 WHOLE HOUR? THAT IS WHAT I AM ASKING, UNLESS IT IS NECESSARY --

9 MR. BARENS: I DON'T MEAN TO INCONVENIENCE THE PEOPLE
10 BUT I FEEL IT IS NECESSARY, PAT, JUST TO -- I DON'T WANT
11 ANY MORE WORSE OF AN APPEARANCE THAN I HAVE GOT ALREADY.

12 THE BAILIFF: OKAY.

13 THE COURT: ALL RIGHT, OKAY.

14 MR. BARENS: I AM SORRY.

15 THE BAILIFF: I WILL BRING HIM UP NOW.

16 MR. WAPNER: THANK YOU.

17 THE COURT: ALL RIGHT. NOW ONE OTHER THING, SO THE
18 JURY WILL KNOW WHAT THIS TESTIMONY IS ALL ABOUT AS A
19 REFERENCE THAT IT INVOLVES PITTMAN, ARE YOU GOING TO REPEAT,
20 OR SHOULD I INDICATE THAT IN YOUR OPENING STATEMENT, THIS
21 IS WHAT YOU INDICATED THIS IS THE EVIDENCE THAT YOU ARE GOING
22 TO ADDUCE?

23 MR. WAPNER: NO, I DON'T THINK THAT SHOULD BE REPEATED.

24 THE COURT: YOU DON'T NEED THAT?

25 MR. WAPNER: NO. I WILL JUST SAVE THAT FOR ARGUMENT.

26 THE COURT: YOU MEAN IT WILL DEVELOP; THE JURY WILL
27 BE AT A LOSS TO UNDERSTAND WHAT THE TESTIMONY IS ALL ABOUT,
28 WON'T THEY?

1 MR. WAPNER: IF THEY DIDN'T GET IT FROM MY OPENING
2 STATEMENT, THEN THEY WILL HAVE TO GET IT FROM ARGUMENT, JUDGE.

3 THE COURT: ALL RIGHT. MR. BARENS --

4 MR. BARENS: SIR?

5 THE COURT: WHAT IS THIS CRAP, ARE WE PAYING FOR THIS?

6 THIS IS OFF THE RECORD.

7 MR. BARENS: I HAVE NOTHING TO DO WITH THE PREPARATION
8 OF THAT.

9 (RECESS.)
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1 (THE FOLLOWING PROCEEDINGS WERE
2 HELD AT THE BENCH:)

3 THE COURT: YES?

4 MR. WAPNER: LET ME BE HEARD JUST VERY BRIEFLY.

5 MR. PITTMAN IS HERE MAKING CERTAIN STATEMENTS. HE HAS SAID
6 ALLEGEDLY THAT HE IS GOING TO MAKE SOME KIND OF OUTBURST. HE
7 WANTS TO HAVE HIS LAWYER CONTACTED.

8 I ATTEMPTED TO CONTACT HIS LAWYER BEFORE ALL OF
9 THIS. BUT TO SHORTCUT ALL OF THIS FOR TODAY, WE CAN
10 FINISH WITH -- WELL, WE WILL NOT FINISH WITH ALL OF THE
11 WITNESSES FROM NEW YORK, IN ANY EVENT. SO --

12 THE COURT: ARE YOU GOING TO HAVE THIS WITNESS WHO IS
13 GOING TO TESTIFY NOW, IDENTIFY HIM?

14 MR. WAPNER: WELL --

15 THE COURT: I DON'T KNOW ABOUT HIS OUTBURST. WE'LL
16 TAKE CARE OF HIM IN A PROPER WAY, IF HE DOES.

17 MR. WAPNER: THIS IS WHAT I THINK WE SHOULD DO.
18 WE ARE GOING TO HAVE TWO WITNESSES FROM THE HOTEL AND ANOTHER
19 NEW YORK POLICE OFFICER. THE ONLY THING THAT IS IMPORTANT
20 FOR MY PURPOSES IS THAT THE JURY BE ABLE TO SEE MR. PITTMAN.
21 THEY DON'T HAVE TO --

22 THE COURT: WELL, THEY ARE GOING TO SEE HIM.

23 MR. WAPNER: THEY DON'T HAVE TO SEE HIM WITH EACH
24 WITNESS, NECESSARILY. SO THAT WE DON'T HAVE ANY OUTBURSTS
25 THAT WE CAN'T CONTROL, I DON'T CARE IF HE IS TAKEN BACK
26 TODAY. WE'LL ORDER HIM OUT FOR TUESDAY. WE'LL HAVE HIS
27 LAWYER HERE AND WE'LL HAVE IT UNDER CONTROL.

28 BECAUSE WE STILL HAVE THE WITNESS FROM NEW YORK

30
1 ON THE STAND AND --

2 THE COURT: YOU DON'T NEED ANY LAWYER. YOU DON'T
3 NEED ANY LAWYER FOR AN IDENTIFICATION OF SOMEBODY. HE
4 DOESN'T NEED HIS LAWYER PRESENT.

5 MR. WAPNER: I AGREE WITH YOU. I AM NOT TALKING ABOUT
6 ANY LEGAL THINGS. I AM TALKING ABOUT CONTROLLING THIS PERSON
7 SO THAT HE DOESN'T GET UP AND START SCREAMING, "I AM IN
8 JAIL. I AM IN JAIL," BECAUSE IT IS NOT GOING TO DO ANY
9 GOOD FOR US TO GO THROUGH THIS WHOLE CHARADE AT GREAT EFFORT
10 TO EVERYBODY TO PUT HIM IN CIVILIAN CLOTHES AND --

11 THE COURT: HAS THERE BEEN ANY COMMUNICATION BETWEEN
12 THE DEFENDANT AND HIM THAT YOU KNOW OF?

13 MR. WAPNER: I DON'T KNOW ANYTHING ABOUT THAT. I
14 DON'T KNOW WHETHER THERE HAS OR HAS NOT BEEN.

15 THE COURT: DO YOU WANT TO TAKE HIM BACK?

16 MR. WAPNER: TAKE HIM BACK. WE'LL ONLY HAVE AN HOUR
17 LEFT TODAY. THERE IS NO WAY WE'LL FINISH WITH ALL OF THE
18 NEW YORK WITNESSES.

19 MR. BARENS: YOUR HONOR, FOR THE RECORD, I HOPE YOUR
20 HONOR DOES NOT PRESUME THAT THE DEFENDANT --

21 THE COURT: THERE HAS BEEN COMMUNICATION BETWEEN
22 YOUR CLIENT AND THIS DEFENDANT, BETWEEN PITTMAN AND YOUR
23 CLIENT DURING THIS TRIAL AND --

24 MR. BARENS: YOUR HONOR --

25 THE COURT: BETWEEN THE TIME THAT HE WAS INCARCERATED
26 AND THE TIME OF THIS TRIAL --

27 MR. BARENS: YES. THERE HAS BEEN. BUT YOUR HONOR'S
28 INQUIRY --

30 - 1 THE COURT: AND THERE IS SOME INDICATION THAT THEY
2 HAVE BEEN --

3 MR. BARENS: YOUR HONOR'S INQUIRY IS GOING TO SHOW
4 STATE OF MIND. AND IT MIGHT INDICATE THAT MY CLIENT HAS
5 DONE SOMETHING WRONG.

6 THE COURT: I DON'T KNOW. I DON'T KNOW THAT.

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31-1

1 THE COURT: I DON'T KNOW.

2 MR. BARENS: BUT YOUR HONOR DOES NOT FEEL THAT WAY,
3 DOES HE, NECESSARILY?

4 THE COURT: NO, NO.

5 BUT THERE MIGHT BE A SUSPICION IN MY MIND
6 THAT THERE MIGHT BE SOME COMMUNICATIONS, I DON'T KNOW
7 WHAT THEY HAVE COOKED UP.

8 MR. BARENS: I ONLY ASKED YOUR HONOR TO TRY TO REMAIN
9 AS OPEN-MINDED.

10 THE COURT: I HAVE BEEN OPEN-MINDED. THE JURY NEVER
11 HAS GOTTEN AN INKLING OF ANYTHING THAT WE ARE TALKING
12 ABOUT AT THIS PARTICULAR TIME.

13 MR. BARENS: I WANT YOUR HONOR TO BE IN FACT OPEN-MINDED
14 TOWARD THE DEFENDANT IN THESE PROCEEDINGS, YOUR HONOR, I
15 THINK IT IS OBLIGATORY.

16 THE COURT: I THINK THAT IS AN INSULT. I WILL DISREGARD
17 IT. GET BACK TO YOUR SEAT, WILL YOU?

18 MR. BARENS: THANK YOU, YOUR HONOR.

19 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE
20 HELD IN OPEN COURT:)

21 THE COURT: MR. WAPNER, ARE WE READY?

22 (PAUSE IN PROCEEDINGS.)

23 THE COURT: LET'S GET THE JURORS IN.

24 (FURTHER PAUSE IN PROCEEDINGS.)

25 (WHEREUPON, THE FOLLOWING PROCEEDINGS
26 WERE HELD WITHIN THE PRESENCE AND
27 HEARING OF THE JURY:)

28 THE COURT: ALL RIGHT, WHERE IS THE CLERK?

31-2

1 WILL YOU SWEAR THE WITNESS, PLEASE?

2 MR. WAPNER: YOU WILL HAVE TO STAND AND BE SWORN.

3 THE CLERK: IF YOU WOULD RAISE YOUR RIGHT HAND TO
4 BE SWORN, PLEASE.

5

6 RICHARD LEBOWITZ,

7 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
8 AS FOLLOWS:

9 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
10 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
11 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
12 TRUTH, SO HELP YOU GOD?

13 THE WITNESS: I DO.

14 THE CLERK: WOULD YOU BE SEATED NOW AND STATE AND
15 SPELL YOUR NAME FOR THE RECORD, PLEASE.

16 THE WITNESS: MY NAME IS RICHARD LEBOWITZ,
17 L-E-B-O-W-I-T-Z.

18

19 DIRECT EXAMINATION

20 BY MR. WAPNER:

21 Q MR. LEBOWITZ, BY WHOM ARE YOU EMPLOYED?

22 A I AM EMPLOYED BY WESTIN HOTELS AND RESORTS.

23 Q AND YOU WORK AT ONE OF THEIR HOTELS IN PARTICULAR?

24 A YES, I DO.

25 Q WHICH HOTEL?

26 A IT IS THE PLAZA HOTEL IN NEW YORK CITY.

27 Q WHAT IS YOUR JOB WITH THEM NOW?

28 A CURRENTLY, I AM THE SALES MANAGER FOR THEM.

31-3

1 Q WERE YOU WORKING THERE IN JUNE OF 1984?

2 A YES, I WAS.

3 Q AND AT THAT TIME, WHAT WAS YOUR JOB?

4 A MY JOB AT THE TIME WAS AS ASSISTANT MANAGER.

5 Q AND AS ASSISTANT MANAGER, WHAT WERE YOUR DUTIES?

6 A MY DUTIES INCLUDED RUNNING THE FRONT OFFICE

7 OPERATIONS AND ON PARTICULAR SHIFTS, SUCH AS THE 3:30

8 SHIFT, I WAS THE SENIOR MANAGER ON DUTY FOR THE HOTEL.

9 Q ON JUNE THE 10TH OF 1984, WERE YOU WORKING
10 AT THE PLAZA HOTEL?

11 A YES, I WAS.

12 Q WHAT TIME DID YOU COME TO WORK AT THAT TIME?

13 A AT 3:30 P.M.

14 Q AND DID YOU HAVE A NORMAL PROCEDURE THAT YOU
15 FOLLOWED WHEN YOU GOT TO WORK?

16 A YES, WE DID.

17 THE PROCEDURE WAS TO ACQUAINT YOURSELF WITH
18 WHAT WAS HAPPENING IN THE DAY.

19 Q AND HOW DID YOU DO THAT?

20 A WELL, WE READ A LOG THAT WAS KEPT AT OUR DESK.

21 Q AND WHO KEEPS THAT LOG?

22 A IT WAS KEPT BY OTHER ASSISTANT MANAGERS OR
23 BY DEPARTMENT HEADS THAT WERE AUTHORIZED TO USE THE LOG.

24 Q ARE YOU FAMILIAR WITH HOW ALL OF THE RECORDS
25 OF THE HOTEL ARE KEPT?

26 A WITH MOST.

27 Q WHEN A GUEST CHECKS INTO THE HOTEL, WHAT HAPPENS?

28 A THE GUEST PROCEEDS TO THE REGISTRATION AREA

31-4
1 IN THE LOBBY AND IS ASKED TO FILL OUT A REGISTRATION CARD.

2 Q IS THAT DONE IN THE ORDINARY COURSE OF BUSINESS?

3 A YES, IT IS.

4 MR. WAPNER: YOUR HONOR, I HAVE A GROUP OF DOCUMENTS
5 THAT I WOULD LIKE TO HAVE MARKED COLLECTIVELY AS PEOPLE'S
6 68 FOR IDENTIFICATION, AND SPECIFICALLY THERE IS A DOCUMENT
7 ON THE TOP OF THE STACK THAT APPEARS TO BE A COPY OF A
8 REGISTRATION CARD; MAY THIS BE 68-A?

9 THE COURT: IT WILL BE SO MARKED.

10 MR. WAPNER: AND AS 68-B, WHAT APPEARS TO BE A COPY
11 OF THE BACK OF THE REGISTRATION CARD.

12 AND AS 68-C, WHAT APPEARS TO BE A CREDIT CARD
13 INVOICE.

14 AND AS 68-D, WHAT APPEARS TO BE A BILL FROM
15 THE PLAZA HOTEL.

16 AND AS 68-E, A BILL FROM A PALM COURT RESTAURANT.

17 AND AS 68-F, WHAT APPEARS TO BE A BILL FROM
18 A LIMOUSINE SERVICE.

19 AND AS 68-G A BILL ALSO FROM THE LIMOUSINE
20 SERVICE.

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1 THE COURT: THEY WILL BE SO MARKED.

2 MR. WAPNER: THANK YOU.

3 Q MR. LEBOWITZ, SHOWING YOU PEOPLE'S 68 FOR
4 IDENTIFICATION, DO YOU RECOGNIZE THE DOCUMENT THAT IS ON
5 THE TOP, MARKED 68-A?

6 A YES. IT IS A PHOTOSTAT OF OUR REGISTRATION CARD,
7 THE FRONT SIDE.

8 Q WAS THAT SENT TO THE COURT PURSUANT TO A SUBPOENA
9 SOMETIME BEFORE YOU CAME TO COURT?

10 A YES, IT WAS.

11 Q AND IS THAT A TRUE AND EXACT COPY OF THE RECORDS
12 KEPT AT THE PLAZA HOTEL?

13 A YES, IT IS.

14 Q ARE YOU FAMILIAR WITH HOW THOSE RECORDS ARE
15 FILLED OUT?

16 A YES, I AM.

17 Q AND THEY ARE FILLED OUT WHEN THE GUEST COMES
18 IN AND HE GOES TO THE DESK CLERK. WHAT HAPPENS?

19 A THE ROOM CLERK WOULD ASK HIM IF HE WAS HOLDING
20 A RESERVATION AND WOULD PRESENT THE REGISTRATION CARD AT
21 THE SAME TIME.

22 THE GUEST WOULD INDICATE WHETHER HE WAS HOLDING
23 A RESERVATION OR NOT AND WOULD FILL IN THE REGISTRATION CARD.

24 Q ALL RIGHT. AND IS THERE SOME INDICATION ON THAT
25 RECORD AS TO WHO THE DESK CLERK WAS AT THE TIME?

26 A YES. IT WAS A ROOM CLERK NAMED ROGER EYDT.

27 Q AS OF JUNE OF 1984, HOW LONG HAD MR. EYDT BEEN
28 WORKING AT THE HOTEL?

1 A HE WAS ONLY TEMPORARY -- TEMPORARILY EMPLOYED.
2 HE WAS SUMMER HELP.

3 Q AND IS THERE SOME INDICATION AS TO THAT RECEIPT,
4 THAT DOCUMENT NO. 68, AS TO WHETHER OR NOT THE PERSON ON
5 THAT HAD A RESERVATION?

6 A JUDGING FROM THIS REGISTRATION CARD, IT WOULD APPEAR
7 THAT HE MIGHT HAVE HAD A RESERVATION BECAUSE THERE IS A "V"
8 AND A "Y" THAT IS CHECKED.

9 Q ALL RIGHT. AND WHAT WAS THE NAME OF THE PERSON
10 WHO REGISTERED UNDER THAT REGISTRATION CARD?

11 A IT IS REGISTERED TO RONALD LEVIN.

12 Q AND WHAT IS THE DATE THAT THAT PERSON REGISTERED
13 AT THE HOTEL?

14 A JUNE 7.

15 Q AND IS THERE A TIME WHEN HE ARRIVED?

16 A THERE IS A TIME STAMP OF 11:17 P.M.

17 Q IS THAT ON THE COPY OF THE BACK OF THE
18 REGISTRATION CARD?

19 A YES, IT IS.

20 Q WHEN IS THAT NORMALLY PUT ON THERE?

21 A AT THE TIME THE CARD IS PRESENTED, WE FLIP IT
22 OVER AND WE TIME STAMP IT.

23 Q IS THAT DONE IN THE ORDINARY COURSE OF BUSINESS?

24 A YES, IT IS.

25 Q IT IS DONE AT THE TIME THE PERSON COMES INTO THE
26 HOTEL?

27 A THAT'S RIGHT. THAT IS THE CORRECT PROCEDURE
28 THAT SHOULD BE DONE.

1 Q WHAT IS THE SIGNIFICANCE OF THE "V" MARKED ON
2 THE FRONT OF THE CARD?

3 A TO MY KNOWLEDGE, IT WAS ALWAYS SOMEWHAT AMBIGUOUS.
4 THE "V" COULD MEAN THAT THE REGISTRATION WAS VERIFIED. AND
5 TO THE BEST OF MY KNOWLEDGE, I DON'T KNOW WHY WE HAD THE
6 "Y."

7 Q WAS THAT EVER USED, THAT "Y" BOX CHECKED?

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32B-1

1 A IF IT WAS USED, IT WAS USED INCONSISTENTLY
2 BY DIFFERENT PEOPLE IN THE FRONT OFFICE.

3 Q DID THIS PERSON HAVE A RESERVATION, IN FACT?

4 A LOOKING AT THIS, NO. HE DID NOT.

5 Q HOW DO YOU KNOW THAT?

6 A FROM LOOKING AT THE WAY THE ROOM CLERK ENTERED
7 THE GUEST TYPE. EACH GUEST TYPE RECEIVES AN INITIAL THAT
8 INDICATES "G" FOR GROUP, "P" FOR PACKAGE OR "W" FOR WALK-IN.
9 THEY HAVE OTHERS, TOO.

10 Q WHAT WAS INDICATED ON HERE?

11 A WALK-IN.

12 Q WHERE IS THAT INDICATED ON THE RECORD?

13 A THAT IS INDICATED ON THE GUEST FOLIO, THE
14 GUEST BILL.

15 Q WHAT IS THE NUMBER ON THAT EXHIBIT?

16 A 68-D.

17 Q IT SAYS "WALK-IN" ON THERE?

18 A THAT'S CORRECT.

19 Q ALL RIGHT. AND WALK-IN WOULD INDICATE THAT
20 IN FACT, THE PERSON DID NOT HAVE A RESERVATION, CORRECT?

21 A THAT'S CORRECT.

22 Q AND AT THE TIME THAT PERSON CAME INTO THE
23 HOTEL, DID HE PRESENT ANYTHING TO GUARANTEE THE PAYMENT?

24 A HE PRESENTED A CREDIT CARD.

25 Q HOW DO YOU KNOW THAT?

26 A WE HAVE AN IMPRINT ON THE BOOK.

27 Q ONE OR MORE THAN ONE?

28 A TWO.

1 A TWO.

2 Q WERE THEY BOTH TAKEN AT THE SAME TIME?

3 A NO, THEY WERE NOT.

4 Q ONE WAS PRESENTED AT THE TIME HE CAME IN TO
5 REGISTER AT THE HOTEL?

6 A EXCUSE ME. MAY I JUST PREFACE THIS BY SAYING
7 THAT I WAS NOT PRESENT AT THE TIME OF THE CHECK-IN?

8 Q ALL RIGHT. AND FROM WHAT YOU KNOW, ONE WAS
9 PRESENTED BEFORE AND ONE WAS PRESENTED LATER?

10 A I AM SPECULATING, BASED UPON MY KNOWLEDGE
11 OF THE FRONT OFFICE PROCEDURES AND FROM MY DISCUSSIONS
12 WITH GAIL MAYER, THE CREDIT MANAGER.

13 MR. BARENS: I WOULD OBJECT AND MOVE TO STRIKE ANY
14 SPECULATION, YOUR HONOR.

15 THE COURT: OVERRULED.

16 Q BY MR. WAPNER: AT THE TIME THAT A PERSON,
17 A GUEST IN THIS CASE, THE PERSON CLAIMING TO BE MR. LEVIN
18 CAME TO THE HOTEL, IF THE PERSON IS GOING TO PAY BY CREDIT
19 CARD, WHAT IS DONE WITH THE CARD?

20 A WE TAKE ONE IMPRINT FOR THE BACK OF THE REGISTRATION
21 CARD. THERE IS ONE IMPRINT ON THE CREDIT CARD VOUCHER
22 AND A THIRD IMPRINT IS ON THE BACK OF -- ON THE FRONT
23 OF AN EXPRESS CHECK-OUT.

24 Q AND ARE THERE TWO IMPRINTS ON THE BACK OF
25 THE REGISTRATION CARD? IS THAT RIGHT?

26 A THAT'S CORRECT.

27 Q AND WHAT KIND OF CREDIT CARDS ARE THOSE?

28 A AMERICAN EXPRESS AND MASTER CARD.

1 Q AND THERE IS A CREDIT CARD VOUCHER ON THE
2 NEXT PAGE OF THAT DOCUMENT?

3 A THAT'S CORRECT.

4 Q WHAT IS THAT?

5 A MASTERCARD.

6 Q AND ON THE BACK OF THE REGISTRATION CARD IS
7 ONE OF THE CREDIT CARDS IMPRINTS CROSSED OUT?

8 A YES, IT IS.

9 Q WHICH ONE?

10 A ON THE AMERICAN EXPRESS.

11 Q DO YOU KNOW WHY? FIRST OF ALL, DO YOU KNOW
12 WHO DID THAT?

13 A THAT WAS DONE EITHER BY GAIL MAYER OR ROGER
14 EYDT. BUT I CAN'T BE SURE WHICH ONE.

15 Q ALL RIGHT. AND IN ANY EVENT, ONE OF THOSE
16 CARDS OR PERHAPS BOTH WERE PRESENTED AT THE TIME THAT
17 THE PERSON REGISTERED?

18 A IT WOULD INDICATE THAT THEY WERE BOTH PRESENTED
19 ON THE 7TH.

20 Q AND WHEN THE CARD IS PRESENTED, IS THERE SOME
21 CHECK DONE AS TO WHETHER IT IS ANY GOOD?

22 A WE OBTAIN A BASIC LIMIT, FLOOR LIMIT APPROVAL.

23 Q WHAT DOES THAT MEAN?

24 A WE ANTICIPATE THE ROOM AND THE TAX AND THE
25 INCIDENTAL CHARGES.

26 Q AND THAT IS FOR THE LENGTH OF THE STAY?

27 A THAT'S CORRECT.

28 Q IS THERE ANY INDICATION AS TO HOW LONG THE

1 STAY WAS TO BE?

2 A FROM THE FRONT OF THE REGISTRATION CARD, IT
3 WAS ARRIVING ON THE 7TH AND DEPARTING ON THE 12TH.

4 Q AND AT THE TIME THAT THAT PERSON REGISTERED,
5 WHAT WAS THE ROOM RATE?

6 A THE ROOM RATE AT THE TIME WAS \$105.

7 Q AND WHEN YOU SAY YOU ANTICIPATE A FLOOR LIMIT,
8 IN THIS CASE, WHAT WOULD THAT BE?

9 A PERHAPS I WAS NOT CLEAR. WE DON'T ANTICIPATE
10 THE FLOOR LIMIT. WE ANTICIPATE THE EXPECTED CHARGES.
11 WE KNOW WHAT THE ROOM AND THE TAX WOULD BE, BASED UPON
12 THE RATE AT THE CHECK-IN.

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1 Q AND THEN YOU CHECK THE CREDIT CARD TO SEE IF IT
2 WOULD COVER THAT AMOUNT?

3 A YES, THAT'S CORRECT.

4 Q AND SINCE YOU WERE NOT PRESENT AT THE CHECK IN,
5 YOU DON'T KNOW AT THAT TIME WHO THIS PERSON WAS WHO CHECKED
6 INTO THE ROOM; IS THAT RIGHT?

7 A THAT'S CORRECT.

8 Q WHAT ROOM WAS THAT PERSON ORIGINALLY ASSIGNED
9 TO?

10 A I CAN'T BE SURE.

11 THE REGISTRATION CARD IS SCRATCHED OVER THE INITIAL
12 ROOM.

13 Q WAS THE ROOM CHANGED AT SOME POINT?

14 A YES, IT WAS.

15 Q WHEN WAS THAT?

16 A ON THE 8TH OF JUNE.

17 Q AND WHAT WAS THE ROOM THAT THE PERSON WAS STAYING
18 IN AFTER THAT DAY?

19 A ROOM 1071.

20 Q ON JUNE THE 10TH, WHAT TIME DID YOU GET TO WORK?

21 A 3:30.

22 Q AND AS PART OF THE NORMAL PROCEDURE, DID YOU CHECK
23 WITH THE CREDIT MANAGER TO SEE WHAT HAD BEEN GOING ON IN
24 THE HOTEL THAT DAY?

25 A YES, I DID.

26 Q AND WHO WAS THE CREDIT MANAGER AT THAT TIME?

27 A MISS GAIL MAYER.

28 Q DID SHE FILL YOU IN -- GET YOU UP TO DATE ON

1 ANY PROBLEMS THAT WERE GOING ON IN THE HOTEL?

2 A YES, SHE DID.

3 Q INCLUDED IN THAT, DID SHE TELL YOU SOMETHING ABOUT
4 WHAT WAS GOING ON IN ROOM 1071?

5 A YES, SHE DID.

6 Q WHAT WAS THAT?

7 MR. BARENS: WE WOULD OBJECT AS OBVIOUSLY HEARSAY,
8 YOUR HONOR.

9 THE COURT: OVERRULED.

10 MR. BARENS: THANK YOU.

11 MR. WAPNER: YOUR HONOR, IT IS NOT BEING OFFERED FOR
12 THE TRUTH OF THE MATTER BUT TO EXPLAIN THE SUBSEQUENT
13 CONDUCT OF THIS WITNESS.

14 THE COURT: THAT IS RIGHT.

15 Q BY MR. WAPNER: WHAT DID SHE TELL YOU?

16 A SHE SAID WE HAD A GUEST IN ROOM 1071 WHO WAS
17 A WALK-IN ON THE 7TH, WHO HAD INCURRED APPROXIMATELY \$1,300
18 IN CHARGES AT THE TIME, WHO THE HOTEL WAS UNABLE TO GET
19 THE SUFFICIENT CREDIT APPROVAL FROM THE CREDIT CARD COMPANY.
20 THAT WE HAD LEFT MESSAGES FOR THE GUEST TO CALL US CONCERNING
21 THIS MATTER. THAT THE GUEST HAD NOT RESPONDED TO HER
22 MESSAGES AND THAT SHE AND THE SECURITY SUPERVISOR EARLIER
23 IN THE DAY HAD PLACED A DOUBLE LOCK ON ROOM 1071.

24 THE COURT: WHAT DOES A DOUBLE LOCK MEAN, SHUT THEM
25 OUT OF THE ROOM, IS THAT IT?

26 THE WITNESS: IT IS A SECOND LOCK, YOUR HONOR, WHICH
27 PROHIBITS ANYONE EXCEPT THE SECURITY SUPERVISOR FROM
28 ENTERING THE ROOM.

3
1 THE COURT: ALL RIGHT.

2 Q BY MR. WAPNER: AND AFTER SHE --

3 WHAT TIME WAS IT APPROXIMATELY THAT SHE TOLD
4 YOU ALL THIS?

5 A IT WOULD BE SHORTLY AFTER 3:30.
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3: 1 Q AND LATER IN THE DAY, DID YOU HAVE SOME CONTACT
2 WITH SOMEONE ABOUT THE BILL ON THAT PARTICULAR ROOM?

3 A YES, I DID.

4 Q WHAT TIME OF THE DAY WAS THAT?

5 A I WOULD IMAGINE SOMEWHERE IN THE NEIGHBORHOOD
6 OF 6:00, 6:30.

7 Q AND DO YOU RECOGNIZE THE PERSON DEPICTED IN
8 THIS PHOTOGRAPH ?

9 MR. WAPNER: THAT, YOUR HONOR, I WOULD LIKE TO HAVE
10 MARKED AS 175 FOR IDENTIFICATION.

11 THE COURT: SO MARKED.

12 THE WITNESS: YES, I DO.

13 Q BY MR. WAPNER: AND DID YOU SEE THE PERSON IN
14 THIS PHOTOGRAPH ON JUNE THE 10TH OF 1984?

15 A YES, I DID.

16 Q WHERE DID YOU SEE HIM?

17 A IN THE FRONT OFFICE, IN MY OFFICE.

18 Q IS THAT ON THE FIRST FLOOR OF THE PLAZA HOTEL?

19 A YES.

20 Q AND WHEN YOU SAW THE PERSON DEPICTED IN THIS
21 PHOTOGRAPH, WHAT HAPPENED?

22 A I INTRODUCED MYSELF AS THE ASSISTANT MANAGER.

23 Q DID HE INTRODUCE HIMSELF TO YOU?

24 A YES, HE DID.

25 Q WHAT DID HE SAY?

26 A HE TOLD ME HE WAS MR. LEVIN FROM ROOM 1071
27 AND THAT HE --

28 Q GO AHEAD.

3
1 A THAT HE COULD NOT GET INTO HIS ROOM.

2 Q HAD GAIL MAYER TOLD YOU WHO WAS STAYING IN
3 ROOM 1071?

4 A YES, SHE HAD.

5 Q DID YOU HAVE SOME PICTURE IN YOUR MIND OF WHO
6 YOU WERE EXPECTING TO SEE AT THAT TIME?

7 A THE THOUGHT HAD CROSSED MY MIND EARLIER THAT
8 LEVIN IS FREQUENTLY A JEWISH NAME.

9 Q DID YOU EXPECT TO SEE SOMEONE WHO LOOKED LIKE
10 THIS (COUNSEL INDICATING)?

11 A NO, I DID NOT.

12 Q AND WHEN THE GENTLEMAN IN THAT PHOTOGRAPH CAME
13 AND TALKED TO YOU, HE TOLD YOU THAT HE WAS LOCKED OUT OF
14 HIS ROOM, AND WHAT DID YOU SAY?

15 A I EXPLAINED TO HIM THAT WE HAVE LOCKED HIM OUT
16 OF THE ROOM.

17 Q DID YOU TELL HIM WHY?

18 A YES, I DID.

19 Q WHY?

20 A I TOLD HIM THAT HIS BILL WAS APPROXIMATELY
21 \$1,300. THAT WE WERE UNABLE TO GET THE APPROVAL NECESSARY
22 FOR THE BILL.

23 THAT HE FAILED TO RESPOND TO ANY OF THE MESSAGES
24 THAT WERE LEFT FOR HIM AND THAT WE HAD -- THAT WE WERE
25 REQUESTING PAYMENT AT THAT TIME.

26 Q WHAT DID HE SAY?

27 A HE THEN -- HE WANTED TO SETTLE THE ACCOUNT
28 RIGHT THERE.

1 Q HOW DID HE SUGGEST THAT HE WAS GOING TO SETTLE
2 THE ACCOUNT?

3 A I ASKED HIM WHAT FORM OF PAYMENT HE HAD.

4 Q WHAT DID HE SAY?

5 A HE SAID HE HAD A CREDIT CARD.

6 Q AND WHAT DID YOU DO?

7 A I ASKED FOR THAT CREDIT CARD.

8 Q DID HE GIVE IT TO YOU?

9 A YES, HE DID.

10 Q WHAT KIND OF CREDIT CARD WAS IT?

11 A AMERICAN EXPRESS.

12 Q AND WHAT DID YOU DO WITH THE CARD WHEN HE GAVE
13 IT TO YOU?

14 A I -- WE HAVE A MACHINE WHICH WILL VERIFY CHARGES.
15 I PUT THE NUMBER THROUGH THE MACHINE.

16 Q WHAT HAPPENED?

17 A THE CARD CAME BACK "PICK UP."

18 Q WHAT DOES THAT MEAN?

19 A IT MEANS THAT THE CREDIT CARD COMPANY IS
20 TELLING YOU TO TAKE THE CARD FROM THE PERSON, KEEP IT, CHOP
21 IT INTO LITTLE PIECES AND SEND IT BACK TO THEM.

22 (LAUGHTER IN COURTROOM.)

23 Q BY MR. WAPNER: DID YOU DO THAT?

24 A YES, I DID.

25 THE COURT: WHAT WAS THE NAME ON THAT CREDIT CARD?

26 THE WITNESS: R. LEVIN, GENERAL PRODUCERS.

27 THE COURT: ALL RIGHT.

28 Q BY MR. WAPNER: COULD YOU JUST SLOWLY READ US

1 WHAT THE NUMBER WAS ON THE CREDIT CARD.

2 A 371351200183026. THE EXPIRATION DATE WAS
3 12-85.

4 Q NOW, YOU DIDN'T CHOP IT INTO LITTLE PIECES IN
5 FRONT OF THE PERSON WHO IS DEPICTED IN 175, DID YOU?

6 A NO, I DIDN'T.

7 Q AND AFTER YOU PUT THE CARD IN THE MACHINE,
8 HOW LONG DID IT TAKE FOR IT TO COME BACK WITH THIS RESPONSE
9 THAT IT WAS A PICK-UP CARD?

10 A I DON'T KNOW THE EXACT TIME BUT NOT LONG.

11 Q WAS THAT DONE IN THE PRESENCE OF THE PERSON
12 WHO IS DEPICTED IN PEOPLE'S 175?

13 A NO, IT WASN'T.

14 Q AND AFTER YOU FOUND OUT THAT THAT CARD WAS A
15 PICK-UP CARD, WHAT DID YOU DO?

16 A I ADVISED THE GENTLEMAN THAT I WAS TAKING HIS
17 CARD AND KEEPING IT.

18 Q AND DID YOU TELL HIM WHY?

19 A YES, I DID.

20 Q AFTER HIM TELLING THAT YOU WERE GOING TO KEEP
21 HIS CARD, WHAT DID HE SAY?

22 A I DON'T RECALL.

23 Q DID YOU ASK HIM FOR SOME ALTERNATIVE METHOD
24 OF PAYMENT?

25 A YES, I DID.

26 Q WHAT HAPPENED THEN?

27 A I ASKED HIM WHAT OTHER METHOD OF PAYMENT HE
28 HAD AND HE GAVE ME A MASTERCARD.

34A-1

1 Q AND INCIDENTALLY, WAS THE AMERICAN EXPRESS
2 CARD THAT HE GAVE YOU THE SAME ONE THAT WAS IMPRINTED
3 ON THE BILL INITIALLY?

4 A YES, IT WAS.

5 Q THAT'S THE ONE THAT HAS THE "X" THROUGH IT?

6 A YES, IT IS.

7 Q AND WHEN HE GAVE YOU THE MASTERCARD, WHAT
8 DID YOU DO?

9 A I CHECKED FOR A CREDIT APPROVAL.

10 Q IS THAT THE SAME MASTERCARD THAT WAS IMPRINTED
11 ON THE BILL ORIGINALLY?

12 A YES, IT WAS.

13 Q WHAT HAPPENED WHEN YOU CHECKED FOR CREDIT
14 APPROVAL ON THE MASTERCARD?

15 A IT CAME BACK DECLINED.

16 Q WHAT DID YOU DO THEN?

17 A I GAVE THE CARD BACK TO HIM. I TOLD HIM THAT
18 THE CARD WAS NOT GOOD.

19 Q AND AFTER YOU TOLD HIM THE CARD WAS NOT GOOD,
20 WHAT HAPPENED?

21 A I ASKED HIM IF HE HAD ANOTHER METHOD OF PAYMENT.

22 Q WHAT DID HE SAY?

23 MR. BARENS: OBJECTION FOR THE RECORD, YOUR HONOR,
24 ON THE HEARSAY NATURE OF THE RESPONSE.

25 THE COURT: WELL, YOU CAN HAVE A CONTINUING OBJECTION
26 FOR THE RECORD.

27 MR. BARENS: THANK YOU.

28 THE COURT: BY THE WAY, IN WHOSE NAME WAS THAT MASTERCARD?

34A-2

1 THE WITNESS: GENERAL PRODUCERS CORPORATION. I
2 CAN'T SEE IF THERE IS A NAME ON IT, TOO.

3 Q BY MR. WAPNER: AND WHEN YOU TOLD HIM THAT
4 HE NEEDED ANOTHER METHOD OF PAYMENT, WHAT DID HE SAY?

5 A HE SAID THAT HE DIDN'T HAVE ANYTHING ELSE.

6 Q AND WHAT HAPPENED THEN?

7 A I TOLD HIM THAT WE WOULD KEEP THE ROOM
8 DOUBLE-LOCKED WITH HIS POSSESSIONS INSIDE THE ROOM UNTIL
9 HE COULD RETURN AND PAY HIS BILL.

10 THE COURT: WHAT DATE WAS THIS, BY THE WAY?

11 THE WITNESS: THE 10TH.

12 THE COURT: THREE DAYS AFTER HE REGISTERED?

13 THE WITNESS: THAT'S CORRECT.

14 Q BY MR. WAPNER: WHAT WAS THE AMOUNT AT THE
15 TIME THAT YOU WERE TALKING TO HIM? WHAT WAS THE AMOUNT
16 OF THE BILL?

17 A I BELIEVE IT WAS \$1,316.

18 Q AND WHAT WAS THE RATE ON THE ROOM THAT HE
19 WAS STAYING IN?

20 A THE RATE ON THE ROOM FOR THE SECOND AND THIRD
21 NIGHTS WAS \$275 PER NIGHT.

22 Q AND AFTER HE SAID HE DIDN'T HAVE ANOTHER METHOD
23 OF PAYMENT AND YOU TOLD HIM THAT YOU WOULD CONTINUE TO
24 KEEP THE ROOM LOCKED, WHAT DID HE DO?

25 A HE SAID THAT HE WOULD COME BACK AND PAY FOR
26 THE ROOM.

27 Q AND DID HE LEAVE YOUR OFFICE AT THAT TIME?

28 A YES, HE DID.

34A-3

1 Q DID YOU SEE HIM AGAIN?

2 A THE NEXT TIME I SAW HIM, HE WAS IN THE PRESENCE
3 OF OUR SECURITY PEOPLE.

4 Q AND WHEN YOU SAW HIM AT THAT TIME, WHERE WERE
5 YOU?

6 A I WAS STILL IN MY OFFICE.

7 THE COURT: IS THIS THE SAME DAY?

8 THE WITNESS: YES.

9 Q BY MR. WAPNER: WHAT TIME, APPROXIMATELY?

10 A I CAN'T BE SURE BUT MAYBE AN HOUR OR SO AFTER.

11 Q DO YOU SEE THE DIAGRAM THAT IS ON THE BOARD
12 BEHIND YOU?

13 A YES.

14 Q HAVE YOU EVER SEEN THAT DIAGRAM BEFORE?

15 A YES.

16 Q AND WAS THAT PREPARED WITH YOUR HELP, AMONG
17 OTHER PEOPLE, AT ANOTHER TIME WHEN YOU WERE HERE FOR ANOTHER
18 HEARING IN THIS MATTER?

19 A I DID NOT PREPARE IT, SIR.

20 Q ARE YOU FAMILIAR WITH WHAT IT PURPORTS TO
21 SHOW?

22 A YES. IT IS THE LOBBY.

23 Q OF THE PLAZA HOTEL?

24 A EXCUSE ME, THE LOBBY OF THE PLAZA.

25 MR. BARENS: YOUR HONOR, I BELIEVE THE WITNESS WAS
26 ASKED ABOUT ANOTHER HEARING IN THIS MATTER. AND THAT
27 IS NOT A FACTUALLY TRUE STATEMENT RELATIVE TO THIS CASE.
28 I DON'T WANT ANY CONFUSION ON THAT, YOUR HONOR.

1 THE COURT: ALL RIGHT. GO AHEAD.

2 MR. WAPNER: THANK YOU.

3 MR. BARENS: COULD WE --

4 THE COURT: I AM NOT CONFUSED ON IT. GO AHEAD.

5 MR. BARENS: BUT I THINK THAT IT COULD BE CONFUSING,
6 JUDGE.

7 THE COURT: PROCEED, WILL YOU PLEASE?

8 Q BY MR. WAPNER: MR. LEBOWITZ, IS THE PLACE
9 WHERE YOUR OFFICE IS, LOCATED ON THAT DIAGRAM?

10 A IT IS MARKED "FRONT OFFICE" ON THE TOP RIGHT.

11 Q AND AFTER YOU SAW MR. PITTMAN -- EXCUSE ME,
12 THE PERSON DEPICTED IN 175 WITH THE SECURITY PEOPLE, DID
13 YOU SEE HIM ARRESTED? WAS HE ARRESTED BY AN OFFICER FROM
14 THE POLICE DEPARTMENT?

15 A THE POLICE WERE CALLED. THE POLICE TOOK HIM
16 AWAY.

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1 Q WHAT WAS THE TOTAL AMOUNT OF THE BILL -- DID
2 IT INCREASE AT SOME POINT FROM THE 1,316?

3 A THE TOTAL CHARGE WAS \$1,924.70.

4 Q ALL RIGHT. AND WHAT ACCOUNTS FOR THE INCREASE?

5 A \$608.70 LIMOUSINE CHARGES.

6 Q AND WHEN WAS THAT INCURRED?

7 A ON THE 10TH.

8 Q SO THAT JUST HAD NOT BEEN POSTED ON THE BILL
9 AS OF THE TIME YOU SPOKE WITH HIM?

10 A IT WOULD APPEAR SO.

11 Q WAS THE HOTEL -- WAS THE BILL EVER PAID?

12 A TO THE BEST OF MY KNOWLEDGE, THE HOTEL RECEIVED
13 SOME PAYMENT SEVERAL DAYS AFTER THE 10TH.

14 Q ALL RIGHT. AND WAS THAT IN PAYMENT OF THE
15 BILL, AS FAR AS YOU KNOW?

16 A TO THE BEST OF MY KNOWLEDGE, WE RECEIVED \$2,000.

17 Q DO YOU KNOW WHAT FORM THAT TOOK?

18 A NO. I AM NOT SURE.

19 Q DID THE PAYMENT COME TO YOU?

20 A NO, IT DID NOT.

21 Q THERE IS ON THE BACK OF THE REGISTRATION CARD
22 WHICH IS MARKED AS 68-B, ONE OF THE AMERICAN EXPRESS CARD
23 IMPRINTS IS X'D OUT. IS THAT RIGHT?

24 A THAT'S CORRECT.

25 Q WHY WAS THAT DONE, DO YOU KNOW?

26 A AGAIN, NOT BEING PRESENT AT THE CHECK-IN,
27 I CAN ONLY SPECULATE, BASED UPON WHAT I WAS TOLD. AND
28 THAT WAS THAT THE CREDIT CARD WAS FIRST TAKEN AND AN
29 IMPRINT WAS TAKEN BEFORE THE APPROVAL WAS REQUESTED.

35
1 Q YOU DON'T KNOW WHY THE CARD WASN'T PICKED UP
2 AT THAT TIME, DO YOU?

3 A NO, I CAN'T BE SURE.

4 Q IT IS POSSIBLE THAT IT WAS JUST -- THAT IT JUST
5 HAD TO DO WITH THE INEXPERIENCE OF MR. EYDT?

6 MR. BARENS: OBJECTION AS TO SPECULATION, YOUR HONOR.

7 THE COURT: SUSTAINED.

8 Q BY MR. WAPNER: WHEN YOU TALKED TO THIS GENTLEMAN
9 WHO WAS --

10 MR. BARENS: DID HE SAY SUSTAINED?

11 Q BY MR. WAPNER: WHEN YOU TALKED TO THIS GENTLEMAN
12 WHO IS IN EXHIBIT 175, WHEN YOU FIRST SPOKE WITH HIM IN YOUR
13 OFFICE, HOW DID HE SEEM TO YOU?

14 MR. BARENS: OBJECTION. VAGUE AND AMBIGUOUS. HOW DID
15 HE SEEM?

16 MR. WAPNER: I WILL REPHRASE THE QUESTION.

17 THE COURT: ALL RIGHT.

18 Q BY MR. WAPNER: WHAT WAS HIS DEMEANOR AT THAT
19 TIME?

20 A HE WAS VERY FRIENDLY. HE WAS VERY EASY GOING.

21 Q HAD YOU HAD ANY CONTACT AT ALL WITH THIS
22 GENTLEMAN DEPICTED IN PEOPLE'S 175 BEFORE JUNE THE 10TH?

23 A NO, I HAD NOT.

24 Q YOU MADE REFERENCE BEFORE TO A LOG THAT IS KEPT
25 AT THE HOTEL, CAN YOU TELL US WHAT THAT IS?

26 A THE LOG WOULD DETAIL ANY EVENTS THAT WERE UNUSUAL,
27 OUT OF THE ORDINARY, REQUIRE FOLLOW UP, PROBLEMS WITH ROOMS,
28 SPECIAL V.I.P. NOTATIONS.

3!
1 JUST THE DAILY ACTIVITIES.

2 Q WHO MAKES THOSE ENTRIES?

3 A USUALLY THE ASSISTANT MANAGERS OR SOME OF THE
4 DEPARTMENT HEADS.

5 Q AND ARE THEY DONE IN THE ORDINARY COURSE OF
6 BUSINESS?

7 A YES, THEY ARE.

8 Q AND WHAT IS THE PURPOSE OF KEEPING THAT LOG?

9 A SO YOU HAVE A RECORD OF WHAT HAPPENED ON WHAT
10 DAY AND WHAT THE ACTION WILL BE, IF THERE WAS AN ACTION TO
11 FOLLOW.

12 Q AND BEFORE YOU CAME TO COURT AT SOME OTHER
13 POINT EARLIER THAN THE TIME YOU ARE IN COURT THIS TIME,
14 DID YOU MAKE A COPY OF THE PAGE OF THAT LOG THAT HAD TO
15 DO WITH JUNE THE 10TH?

16 A YES, I DID.

17 Q AND WAS THAT A TRUE AND EXACT COPY OF THE LOG
18 THAT WAS KEPT AT THE PLAZA HOTEL?

19 A YES, IT WAS.

20 Q AND YOU BROUGHT THAT TO COURT WITH YOU?

21 A TODAY?

22 Q NO. THE LAST TIME?

23 A YES, I DID.

24 MR. WAPNER: I HAVE A DOCUMENT THAT PURPORTS TO BE A
25 PAGE FROM THIS LOG, YOUR HONOR; MAY IT BE MARKED AS
26 PEOPLE'S 69 FOR IDENTIFICATION?

27 THE COURT: SO MARKED.

28 MR. BARENS: WE WOULD OBJECT TO THAT AS BEING A HEARSAY

35 1 DOCUMENT, YOUR HONOR.

2 THE COURT: OVERRULED.

3 HE SAID IT WAS KEPT IN THE ORDINARY COURSE OF
4 BUSINESS AT THE HOTEL.

5 MR. BARENS: WE HAVE SOME CONCERN ABOUT IT MEETING THE
6 CRITERIA OF 1271 OF THE CODE, YOUR HONOR.

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1 THE COURT: THAT IS ALL RIGHT. I WILL ADMIT IT.

2 MR. WAPNER: I AM NOT MOVING TO HAVE IT RECEIVED QUITE
3 AT THIS TIME, YOUR HONOR.

4 Q BY MR. WAPNER: DO YOU RECOGNIZE PEOPLE'S 69?

5 A YES, I DO.

6 Q WHAT IS IT?

7 A IT IS A PAGE OUT OF THE LOG.

8 Q IS THAT THE LOG THAT IS KEPT AT THE HOTEL?

9 A YES, IT IS.

10 Q AND ARE THERE REFERENCES THERE TO THINGS THAT
11 HAPPENED ON JUNE THE 10TH?

12 A YES, THERE ARE.

13 Q AND WITH RESPECT TO -- THERE IS SOMETHING THAT
14 APPEARS TO SAY 10:00 OR ONE ZERO AND THEN TWO MORE ZEROS,
15 A SPACE AND THEN TWO MORE ZEROS.

16 A YES.

17 Q AND ARE THERE SOME INITIALS BY THAT?

18 A ARE THERE INITIALS BY --

19 Q BY WHERE THE 10:00 ENTRY APPEARS?

20 A YES, THERE ARE.

21 Q CAN YOU TELL US WHO THAT WAS MADE BY?

22 A COLDEN, TOM COLDEN, THE DIRECTOR OF SECURITY
23 AND G.M., GAIL MAYER, WHO WAS CREDIT MANAGER AND FURTHER
24 BELOW IS H.B., WHO WAS THE HOTEL MANAGER.

25 Q WHO IS THAT PERSON'S NAME?

26 A HART H-A-R-T BALLIN B-A-L-L-I-N.

27 Q WAS THAT ALSO AT THE 10:00 ENTRY OR IS THAT ON
28 AN ENTRY THAT IS FURTHER DOWN THE PAGE?

1 A IT IS UNDERNEATH.

2 IT WOULD INDICATE THAT HE, THE FOLLOWING DAY,
3 CAME IN, READ THE EVENTS OF THE EVENING PAST AND INITIALED
4 THAT HE HAD SEEN WHAT WAS LISTED.

5 Q AND THERE IS A NOTATION AT THE BOTTOM THAT ALSO
6 BEARS YOUR FIRST INITIAL AND LAST NAME; IS THAT RIGHT?

7 A THAT'S CORRECT.

8 Q IS THAT YOUR WRITING IN THAT NOTATION?

9 A YES, IT IS.

10 Q WAS THE PERSON IN PEOPLE'S 175, WHO YOU KNEW AT
11 THAT TIME AS MR. LEVIN, RESPONSIBLE FOR SOME DAMAGE AT THE
12 HOTEL?

13 A YES, HE WAS.

14 Q WHAT KIND OF DAMAGE WAS THAT?

15 A WE HAD DAMAGE DONE TO THE DOOR OF ROOM 1071
16 AS WELL AS TO THE GLASS REVOLVING DOOR IN THE LOBBY.

17 Q WAS THE HOTEL, TO YOUR KNOWLEDGE, EVER COMPENSATED
18 FOR THAT?

19 A I DO NOT KNOW.

20 MR. WAPNER: MAY I HAVE A MOMENT?

21 I DON'T HAVE ANYTHING FURTHER.

22 MR. BARENS: THANK YOU, YOUR HONOR.

23

24 CROSS-EXAMINATION

25 BY MR. BARENS:

26 Q GOOD DAY, MR. LEBOWITZ.

27 MR. LEBOWITZ, WERE YOU CONTACTED IN JUNE OF '86
28 BY SOME LAWYERS REPRESENTING MR. PITTMAN?

1 THE COURT: WELL, DO YOU WANT TO STIPULATE THAT THAT
2 PICTURE IS MR. PITTMAN?

3 MR. BARENS: DO I HAVE TO?

4 THE COURT: IT DOESN'T MEAN ANYTHING TO THE JURY
5 ABOUT JUST SAYING PITTMAN.

6 MR. BARENS: I AM JUST ASKING HIM IF HE WAS CONTACTED
7 BY SOME LAWYERS FOR MR. PITTMAN, ACTUALLY.

8 THE COURT: DO YOU KNOW WHO MR. PITTMAN IS?

9 THE WITNESS: FROM WHAT I HAVE HEARD TODAY AND FROM
10 PREVIOUS READINGS IN THE NEWSPAPER, YES.

11 THE COURT: MR. PITTMAN WAS THE MAN THAT YOU HAD THE
12 PROBLEM WITH?

13 THE WITNESS: WHO I BELIEVED TO BE RON LEVIN AT THE
14 TIME.

15 THE COURT: ALL RIGHT.

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36A-1

1 MR. BARENS: YOUR HONOR, AS TO THE STIPULATION YOU
2 ASKED, I DON'T BELIEVE I CAN DO THAT.

3 THE COURT: GO ON, GO ON.

4 Q BY MR. BARENS: WERE YOU CONTACTED BY SOME
5 LAWYERS REPRESENTING HIM?

6 A I DON'T KNOW.

7 Q WHEN YOU WERE CONTACTED, ISN'T IT A FACT THAT
8 YOU WERE CONTACTED BY A GENTLEMAN NAMED KEITH ROHMAN IN
9 JUNE OF 1986?

10 A I DON'T REMEMBER IF THAT WAS THE GENTLEMAN'S
11 NAME.

12 Q WELL, DO YOU REMEMBER BEING CONTACTED BY SOMEONE
13 MAKING INQUIRY THAT MIGHT HAVE BEEN INTERESTED IN THE
14 CASE INVOLVING MR. PITTMAN?

15 A YES, I DO.

16 Q DO YOU REMEMBER THAT, DON'T YOU?

17 A I REMEMBER BEING CONTACTED BY SOMEONE ASKING
18 ME QUESTIONS ABOUT THE CASE.

19 Q DID YOU TELL HIM THAT YOU WOULD NOT MEET WITH
20 HIM OR TALK TO HIM UNLESS YOU WERE INSTRUCTED TO DO SO
21 BY THE DISTRICT ATTORNEY'S OFFICE IN LOS ANGELES COUNTY?

22 A I BELIEVE WHAT I SAID WAS THAT I DIDN'T KNOW
23 WHO THE GENTLEMAN WAS AND I DIDN'T KNOW IF IT WAS THE
24 THING FOR ME TO DO, TO BE TALKING ABOUT THE CASE. AND
25 I WOULD BE HAPPY TO COMPLY, AS LONG AS THE DISTRICT ATTORNEY'S
26 OFFICE TOLD ME THAT IT WAS THE THING TO DO.

27 Q RIGHT. DID YOU FEEL THAT IT WAS SOMEHOW INCUMBENT
28 UPON YOU THAT YOU ONLY SPEAK TO SOMEONE IF THE D.A.'S

36A-2

1 OFFICE TOLD YOU YOU COULD?

2 A NO, SIR.

3 Q WHY DID YOU ACT THAT WAY?

4 A WELL, I DIDN'T KNOW THE IDENTITY OF THE PERSON
5 ASKING.

6 Q YOU MEAN HE DIDN'T OFFER YOU ANY PERSONAL
7 IDENTIFICATION?

8 A OVER THE TELEPHONE?

9 Q IT WAS OVER THE PHONE?

10 A YES, SIR.

11 Q DID YOU CALL THE D.A.'S OFFICE AFTER THAT
12 CONTACT?

13 A NO, I DID NOT.

14 Q YOU DIDN'T MAKE INQUIRY TO SEE WHETHER YOU
15 COULD TALK TO THIS PERSON OR NOT?

16 A I SUGGESTED TO THE PERSON CALLING ME THAT
17 IF HE WANTED ME TO COOPERATE, THAT HE SHOULD PLACE A CALL
18 TO THE D.A.'S OFFICE, AND IF THEY CALLED ME, I WOULD BE
19 HAPPY TO COOPERATE.

20 Q DID YOU TELL HIM THAT YOU WOULD PERHAPS NEED
21 A SUBPOENA BEFORE YOU WOULD COOPERATE?

22 A I DON'T RECALL SAYING THAT.

23 Q NOW, SIR, YOU ARE TELLING ME THAT A PERSON
24 CHECKED INTO THE HOTEL ON THE 7TH AND WAS GIVEN A CERTAIN
25 ROOM?

26 A THAT'S CORRECT.

27 Q OKAY. DO YOU KNOW WHO THE PERSON WAS WHO
28 CHECKED IN THAT DAY?

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A NO. I WAS NOT PRESENT AT CHECK-IN.

Q SO YOU DON'T KNOW?

A I WAS NOT PRESENT AT CHECK-IN.

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1 Q DO YOU KNOW IF MORE THAN ONE PERSON SHOWED
2 UP AT THAT TIME WHEN THE ORIGINAL CHECK-IN OCCURRED?

3 A I DON'T KNOW.

4 Q OKAY. NOW, WE KNOW THAT A PERSON MUST HAVE
5 CHECKED IN ON THE 7TH AND THEN YOU KNOW THAT THERE WAS
6 ANOTHER ROOM GIVEN, IS THAT CORRECT, SIR?

7 A THAT'S CORRECT.

8 Q ALL RIGHT. NOW DO YOU, OF YOUR PERSONAL KNOWLEDGE,
9 KNOW WHETHER THE PERSON HAD CHECKED IN ON THE 7TH, WHETHER
10 THAT WAS THE SAME PERSON THAT WENT TO THE ROOM ON THE
11 8TH?

12 A NO, I DO NOT.

13 Q IT IS A DISTINCTLY DIFFERENT ROOM THAT WE
14 HAVE RESULTING ON THE 8TH, DO WE NOT, SIR?

15 A THAT'S CORRECT.

16 Q NOW, WAS THE SECOND ROOM THAT WE HAVE EVIDENCE
17 ABOUT BIG ENOUGH FOR TWO PEOPLE?

18 A WE CLASSIFY ROOM NO. 1071 AS A DELUXE ROOM,
19 WHICH WOULD BE MORE THAN LARGE ENOUGH FOR TWO PEOPLE.

20 Q I SEE. HOW ABOUT THE FIRST ROOM THAT WE HAVE
21 EVIDENCE ABOUT?

22 A THAT WOULD BE A STANDARD ROOM WHICH MIGHT
23 BE TIGHT, BUT IT COULD DO FOR TWO PEOPLE.

24 Q MORE PARTICULARLY, IN YOUR FAMILIARITY, IT
25 WOULD BE MORE FOR ONE PERSON?

26 A THAT'S CORRECT.

27 Q NOW, DID YOU WHEN YOU WERE GETTING CREDIT
28 INFORMATION ON THE CARD NUMBER THAT YOU MADE REFERENCE

1 TO EARLIER, FIND OUT WHY THERE WAS A PICKUP ON THE CARD?

2 A NO, I DID NOT.

3 Q YOU DIDN'T ASK THAT KIND OF A QUESTION?

4 A NO, SIR. WE ARE TALKING ABOUT TALKING TO
5 A MACHINE, SO TO SPEAK. WE JUST PUT IN THE NUMBERS AND
6 IT GIVES US A CODE OR A DECLINE OR A PICKUP.

7 Q ALL RIGHT. DO YOU, BASED ON YOUR FAMILIARITY
8 OF THESE MATTERS, HAVE AN IMPRESSION AS TO WHY CARDS ARE
9 PICKED UP, BASED ON YOUR EXPERIENCE?

10 MR. WAPNER: HAVE AN IMPRESSION? THAT CALLS FOR
11 SPECULATION ON THE PART OF THE WITNESS.

12 MR. BARENS: WELL, WE HAVE HAD ALL SORTS OF SPECULATION
13 FROM THIS WITNESS.

14 THE COURT: IS THAT AN ARGUMENT? THEN, SINCE WE
15 HAVE MADE MISTAKES BEFORE, YOU DON'T WANT ME TO MAKE ANOTHER
16 ONE? IS THAT IT?

17 MR. BARENS: IF WE ALLOWED SPECULATION FOR THE PROSECUTION,
18 WE SHOULD ALLOW IT FOR THE DEFENSE.

19 THE COURT: OBJECTION SUSTAINED. REPHRASE YOUR
20 QUESTION.

21 MR. BARENS: JUST A MOMENT, YOUR HONOR.

22 (PAUSE.)

23 Q BY MR. BARENS: SIR, HAVE YOU EVER MADE INQUIRY
24 IN THE PAST OR DO YOU HAVE SPECIFIC KNOWLEDGE FROM YOUR
25 PAST DEALINGS AS TO WHY CARDS ARE GIVEN A PICKUP NOTIFICATION?

26 A COULD YOU REPHRASE YOUR QUESTION, PLEASE?

27 THE COURT: IN YOUR EXPERIENCE, DO YOU KNOW WHY
28 CARDS ARE ASKED TO BE PICKED UP?

1 THE WITNESS: YES.

2 THE COURT: BECAUSE THE CREDIT IS BAD, IS THAT IT?

3 THE WITNESS: IT COULD BE BECAUSE THE CARD IS LOST
4 OR IT COULD BE BECAUSE THE CARD IS STOLEN OR IT COULD
5 BE FOR REASONS UNKNOWN TO ME.

6 Q BY MR. BARENS: ONE OF THE REASONS THAT YOU
7 DO KNOW ABOUT, WOULD BE THAT IT COULD BE BEYOND THE MAXIMUM
8 CHARGE LIMIT? AND IT COULD BE CANCELLED FROM THAT TYPE
9 OF THING?

10 A I DON'T REALLY KNOW WHY SOMETHING WOULD BE
11 PICKED UP.

12 Q OKAY. NOW, YOU SAID THAT YOU EVENTUALLY MET
13 THIS FELLOW, LEVIN, ON THAT OCCASION AND THAT YOU WERE
14 SOMEWHAT SURPRISED WHEN YOU SAW HIM?

15 A I BELIEVE WHAT I SAID WAS THAT FREQUENTLY,
16 LEVIN WAS A JEWISH NAME.

36B FO.

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1 Q WELL, THIS DIDN'T LOOK LIKE ANY JEWISH PEOPLE
2 YOU KNEW, DID IT?

3 A I DIDN'T SUPPOSE HE WAS JEWISH OR NOT.

4 Q WELL, DID IT MEET YOUR EXPECTATION WHEN YOU SAW
5 HIM?

6 A IT SURPRISED ME WHEN I SAW HIM.

7 Q THAT IS JUST WHAT I ASKED YOU FIRST, IF YOU
8 WERE SURPRISED.

9 A NO. I BELIEVE YOU ASKED ME SOMETHING ELSE.

10 Q I ASKED IF YOU WERE SURPRISED --

11 MR. WAPNER: OBJECTION, ARGUMENTATIVE.

12 MR. BARENS: IT DOESN'T MATTER. I GUESS YOU WERE. ALL
13 RIGHT.

14 Q IN ANY EVENT, WHEN YOU SAW THIS PERSON -- BY
15 THE WAY, WHEN YOU LOOK AT THIS PICTURE SIR, DO YOU HAVE ANY
16 PROBLEM IDENTIFYING THIS AS THE PERSON YOU SAW THAT DAY?

17 A NO, I DO NOT.

18 Q THANK YOU. NOW, WHEN YOU SAW HIM, DID YOU EVER
19 ASK HIM AT ANY TIME, "BY THE WAY, ARE YOU REALLY MR. LEVIN?"

20 A THE GENTLEMAN IDENTIFIED HIMSELF AS MR. LEVIN.

21 Q MY QUESTION ACTUALLY TO YOU SIR, IS, DID YOU
22 EVER ASK HIM AFTER BEING A BIT SURPRISED HERE, "ARE YOU
23 REALLY MR. LEVIN?"

24 A I DIDN'T FEEL IT WAS NECESSARY TO ASK IF HE WAS
25 REALLY MR. LEVIN, AFTER HE ADVISED ME THAT HE WAS MR. LEVIN.

37 FO.

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37 -

1 Q ALL RIGHT. SO ALTHOUGH YOU SAY THAT, IN OTHER
2 WORDS, IT DID NOT CROSS YOUR MIND IN FACT TO ASK HIM THAT
3 QUESTION?

4 A THAT'S CORRECT.

5 Q DID YOU EVER COMMENT TO ANYONE AT THAT POINT IN
6 TIME THAT YOU DIDN'T THINK THAT WAS MR. LEVIN?

7 A I DON'T --

8 THE COURT: HOW DOES HE KNOW? HE DOESN'T KNOW LEVIN.

9 THE WITNESS: I DON'T RECALL.

10 MR. BARENS: I AM ASKING HIM WHAT HE COMMENTED, SIR.

11 THE COURT: DID YOU EVER COMMENT TO ANYBODY THAT YOU
12 DIDN'T THINK THAT WAS MR. LEVIN?

13 THE WITNESS: NO.

14 THE COURT: ALL RIGHT.

15 Q BY MR. BARENS: YOU NEVER MADE THAT COMMENT?

16 A IF I UNDERSTAND -- IF YOU COULD REPEAT THE
17 QUESTION AGAIN.

18 Q CONTEMPORANEOUSLY WITH THESE EVENTS AFTER YOU
19 HAD MET MR. -- THIS GENTLEMAN WHO SAID HE WAS MR. LEVIN
20 IN THE FIRST INSTANCE, DID YOU EVER COMMENT TO SOMEONE
21 ANYTHING LIKE "I DON'T THINK THAT WAS MR. LEVIN?"

22 A NO, I DID NOT.

23 Q OR ANYTHING LIKE "I WONDER IF HE PROPERLY HAS
24 POSSESSION OF THAT CARD?"

25 A NO, I DID NOT.

26 Q ALL RIGHT. DID THAT CROSS YOUR MIND?

27 A THE ONLY THOUGHTS I HAD WERE PRIOR TO MEETING
28 HIM.

31

1 ONCE THE GENTLEMAN AND I MET, THE THOUGHT NEVER
2 CROSSED MY MIND THAT HE WAS ANYONE OTHER THAN MR. LEVIN.

3 Q SO YOU WERE QUITE WELL SATISFIED WITH THAT?

4 A YES, I WAS.

5 Q HOW ABOUT AFTER YOU HAD SOME PROBLEMS COLLECTING
6 THE BILL AND YOU NOW HAVE THIS SECOND CREDIT CARD GIVEN
7 YOU, DID YOU HAVE ANY CONCERNS OCCASIONED THAT PERHAPS THIS
8 PERSON YOU WERE DEALING WITH DID NOT PROPERLY HAVE POSSESSION
9 OF THOSE CREDIT CARDS?

10 A MEANING THAT THEY WEREN'T HIS CARDS?

11 Q YES, SIR.

12 A NO, I DID NOT.

13 Q NEVER OCCURRED TO YOU, SIR?

14 A NO, IT DID NOT.

15 Q WHEN YOU CALLED IN AND THEY HAVE THAT PICK UP
16 STUFF ON THOSE CARDS AND THIS AND THAT, THERE IS NO
17 IDENTIFICATION --

18 MR. WAPNER: EXCUSE ME. THAT MISSTATES THE EVIDENCE.
19 HE SAID "PICK UP STUFF ON THOSE CARDS AND THIS AND THAT" --

20 MR. BARENS: I AM SORRY?

21 MR. WAPNER: THERE WAS ONLY A PICK UP ON ONE CARD.

22 Q BY MR. BARENS: PICK UP ON ONE CARD AND DECLINE
23 ON THE OTHER CARD, I SUPPOSE, IS MORE SPECIFIC.

24 DO YOU EVER GET ANY IDENTIFICATION INFORMATION
25 ON THE CARDHOLDER AT THAT TIME?

26 A NO, WE DID NOT.

27 Q DO YOU EVER IN YOUR HOTEL ACTIVITIES THERE ASK
28 SOMEBODY FOR A DRIVER'S LICENSE WITH THEIR CREDIT CARD

3;

1 APPLICATION?

2 A COULD YOU REPHRASE YOUR QUESTION?

3 WE WOULD ASK FOR A DRIVER'S LICENSE IF WE NEEDED
4 FORMAL IDENTIFICATION SUCH AS CASHING A CHECK, THAT MAY BE
5 A REQUIRED FORM OF IDENTIFICATION.

6 Q BUT YOU NEVER ASKED FOR AN IDENTIFICATION WHEN
7 SOMEONE PRESENTS A CREDIT CARD?

8 A NO, WE DO NOT.

9 Q ISN'T IT A FACT THAT THE REVERSE OF AMERICAN
10 EXPRESS CREDIT CARDS TYPICALLY HAVE A SIGNATURE LINE FOR
11 THE CARDHOLDER?

12 A YES, THEY DO.

13 Q DO YOU EVER CHECK THAT SIGNATURE ON THE CARD
14 AGAINST ANY REGISTRATION SIGNATURE GIVEN WHEN THE GUEST
15 CHECKS IN?

16 A YES, WE DO.

17 Q DID YOU IN THIS INSTANCE?

18 A I WOULD HAVE TO LOOK NOW. I DON'T RECALL.

37A FO.

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1 Q AND DO YOU SEE THE SIGNATURE ON THE REVERSE OF
2 THE CREDIT CARD?

3 A NO, I DON'T SEE IT.

4 Q IS THERE ONE THERE?

5 A NO, THERE IS NOT.

6 Q OH, THERE IS NO SIGNATURE ON THE REVERSE?

7 SO I UNDERSTAND YOU, THERE IS NO SIGNATURE ON
8 THE CREDIT CARD?

9 A I AM NOT LOOKING AT THE CREDIT CARD RIGHT NOW.

10 Q WHAT ARE YOU LOOKING AT?

11 A I AM LOOKING AT A XEROX OF THE BACK OF THE
12 REGISTRATION CARD.

13 Q RIGHT.

14 DO YOU HAVE A XEROX OF THE BACK OF THE CREDIT
15 CARD?

16 A NO, I DO NOT.

17 Q YOU DO NOT?

18 YOU JUST HAVE A COPY OF THE REGISTRATION CARD?

19 A I DON'T BELIEVE I HAVE THE CREDIT CARD HERE.

20 MR. BARENS: DOES HE --

21 MR. WAPNER: WHY DO YOU ASK ME WHAT IS IN THE RECORDS?
22 YOU ARE SUPPOSED TO LOOK AT THE STUFF.

23 MR. BARENS: I AM JUST ASKING IF HE HAS THE BACK OF
24 THE CREDIT CARD.

25 MR. WAPNER: WHY DON'T YOU GO AND LOOK AT IT?

26 THE WITNESS: I DON'T BELIEVE I DO.

27 Q BY MR. BARENS: YOU DON'T HAVE IT, DO YOU?

28 A I WILL LOOK THROUGH EACH PAGE HERE.

1 Q TO SAVE YOU TIME, SIR, I SUBMIT TO YOU THAT
2 I DO NOT THINK YOU HAVE A COPY OF THE REVERSE OF THAT CREDIT
3 CARD.

4 THE COURT: WHY DID YOU ASK HIM TO LOOK FOR IT THEN?
5 MR. BARENS: I THINK IT DRAMATIZES THE POINT THAT HE
6 DOESN'T HAVE IT, YOUR HONOR.

7 Q IN ANY EVENT, YOU DON'T RECALL EVER SEEING A
8 SIGNATURE ON THE BACK OF THAT CREDIT CARD, DO YOU?

9 A I CAN'T RECALL.

10 Q OKAY. YOU MADE REFERENCE TO A LOG, WHICH IS
11 NOW PEOPLE'S 69, THAT THE PLAZA MAINTAINS; IS IT YOUR
12 STATEMENT THAT THAT IS SOME SORT OF A DAILY LOG ABOUT JUST
13 LIKE WHAT, A DIARY OF THINGS THAT HAPPENED AT THE HOTEL?

14 A THAT'S CORRECT.

15 Q WHY DO YOU FOLKS KEEP THAT?

16 A THAT IS KEPT TO APPRISE OTHER DEPARTMENTS IN
17 THE HOTEL WHAT IS GOING ON. IF THERE IS AN ACTION THAT
18 NEEDS TO BE DONE, WHO IT IS ADDRESSED TO. VARIOUS THINGS.

19 Q IS THAT ALSO KEPT AS SORT OF A PROPHYLACTIC
20 DEVICE IN THE EVENT THERE IS LITIGATION AGAINST THE HOTEL?

21 A I DON'T UNDERSTAND YOUR QUESTION.

22 Q WELL, IT OCCURS TO ME THAT YOU MIGHT, IF THIS
23 IS TRUE, SIR, HAVE MAINTAINED THAT LOG BECAUSE IF THERE IS
24 LITIGATION BY A GUEST, FOR INSTANCE, AGAINST THE HOTEL OR
25 AN INSURANCE CLAIM, THAT IS THE TYPE OF EVIDENCE THAT COULD
26 BE HELPFUL TO THE HOTEL; HAS IT EVER BEEN UTILIZED IN THAT
27 REGARD?

28 A I AM NOT AWARE OF THAT.

1 Q YOU ARE NOT, SIR?

2 THE COURT: HE SAID HE IS NOT AWARE OF IT.

3 Q BY MR. BARENS: ALL RIGHT, SIR, DOES ANYONE IN
4 THE HOTEL PERSONNEL INSTRUCT THE EMPLOYEES TO MAINTAIN THIS
5 TYPE OF A LOG?

6 A WE ARE TOLD TO MAKE LOG ENTRIES, YES.

7 Q WHO TOLD YOU THAT?

8 A I WAS TOLD BY THE MANAGER OF THE FRONT OFFICE.

9 Q AND IS THERE ANY SORT OF A WRITTEN EMPLOYEE
10 MANUAL THAT MAKES REFERENCE TO THAT PROCEDURE?

11 A AS TO HOW TO MAKE LOG ENTRIES?

12 Q NO.

13 THAT MAKES REFERENCE TO THE REQUIREMENT IN THE
14 FIRST INSTANCE?

15 A I AM SORRY. CAN YOU REPEAT YOUR QUESTION?

16 Q WELL, THE MANAGER TELLS YOU THAT YOU ARE SUPPOSED
17 TO DO THIS; HAVE YOU EVER SEEN ANY DOCUMENTATION THAT
18 REQUIRES EMPLOYEES TO DO THIS?

19 A PERHAPS IF I LOOKED AT A JOB DESCRIPTION, THAT
20 WOULD BE PART OF THE JOB DESCRIPTION.

21 Q BUT YOU DON'T RECALL THAT, DO YOU?

22 A NO, I DO NOT.

23 Q AFTER YOU MAKE THESE LOG ENTRIES, WAS IT YOUR
24 NORMAL PRACTICE THAT WHEN THE LOG ENTRY INVOLVES SOMEONE
25 OTHER THAN YOURSELF OR OTHER THAN THE MAKER OF THE LOG ENTRY,
26 THAT THEY ARE SUMMONED TO COME IN AND READ IT AND INITIAL
27 IT?

28 A THEY ARE NOT SUMMONED TO COME IN.

1 EACH MANAGER THAT WAS RESPONSIBLE FOR SEEING
2 THE LOG WHEN THEY ARRIVED, WHETHER IT BE THAT EVENING OR
3 THE NEXT DAY, THEIR DUTIES WERE TO READ THE LOG AND FAMILIARIZE
4 THEMSELVES WITH WHAT WENT ON WHILE THEY WERE NOT IN THE HOTEL.

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38-1

1 Q BUT IN THE NORMAL COURSE OF THINGS, YOU WOULDN'T
2 HAVE IT THEN? IF THERE WAS A STATEMENT THAT -- I DON'T
3 KNOW, SOME PERSON THAT WORKED IN THE HOTEL HAD A CERTAIN
4 INCIDENT OCCUR. YOU WOULD'T NECESSARILY HAVE THAT PERSON
5 COME IN AND INITIAL THAT ENTRY?

6 A AT THAT TIME?

7 Q YES, SIR.

8 A NO, I WOULD NOT.

9 MR. BARENS: THANK YOU.

10 THE COURT: ANY REDIRECT?

11 MR. WAPNER: YES.

12
13 REDIRECT EXAMINATION

14 BY MR. WAPNER:

15 Q THE REGISTRATION CARD IS IN THE NAME OF MR.
16 LEVIN?

17 A THAT'S CORRECT.

18 Q WHAT IS THE ADDRESS ON IT?

19 A I BELIEVE IT IS 105 P-E-C-K STREET, WESTWOOD,
20 L.A. 90048.

21 Q WHAT WAS THAT NUMBER AGAIN?

22 A 900 --

23 THE COURT: NO, THE ADDRESS ON IT.

24 THE WITNESS: 105 --

25 THE COURT: PECK DRIVE?

26 THE WITNESS: IT APPEARS TO BE 105.

27 THE COURT: ALL RIGHT.

28 Q BY MR. WAPNER: IT IS L.A. 90048, CORRECT?

38-2

1 A CORRECT.

2 Q YOU DIDN'T LIVE IN LOS ANGELES THEN AND YOU
3 DON'T LIVE THERE NOW, DO YOU?

4 A THAT'S CORRECT.

5 Q YOU DON'T KNOW IF THERE IS A PECK DRIVE IN
6 90048, DO YOU?

7 A NO. I DON'T KNOW.

8 Q ALL RIGHT. AND THERE IS A LINE THERE FOR
9 SIGNATURE?

10 A YES, THERE IS.

11 Q AND WHEN IS THAT SIGNED BY THE GUEST IN RELATION
12 TO WHEN HE CHECKS IN?

13 A IT SHOULD BE AT THE SAME TIME.

.. 14 MR. WAPNER: YOUR HONOR, MAY 68 BE RECEIVED INTO
15 EVIDENCE?

16 THE COURT: YES.

17 MR. WAPNER: MAY I WALK IT IN FRONT OF THE JURY?

18 THE COURT: YES.

19 (PAUSE.)

20 Q BY MR. WAPNER: IS THE SIGNATURE ON 68-A,
21 ON THE LINE WHERE IT SAYS --

22 MR. BARENS: EXCUSE ME. FOR THE RECORD, IT IS INCUMBENT
23 ON ME AND I WANT TO MAKE AN OBJECTION TO THE ADMISSION
24 OF THAT EVIDENCE AS BEING HEARSAY.

25 THE COURT: VERY GOOD. YOU HAVE MADE THE OBJECTION,
26 DIDN'T YOU?

27 MR. BARENS: I DIDN'T KNOW IF I MADE IT TIMELY AT
28 THIS TIME.

THE COURT: IT IS TIMELY. AND I AM GOING TO OVERRULE

38-3

1 THE OBJECTION.

2 MR. BARENS: THANK YOU.

3 Q BY MR. WAPNER: WHEN A GUEST CHECKS IN, DO
4 YOU NORMALLY TAKE AN IMPRINT OF THE BACK OF THE CREDIT
5 CARD?

6 A NO, WE DO NOT.

7 Q YOU ARE JUST CONCERNED WITH WHAT IS -- STRIKE
8 THAT.

9 LET ME REPHASE IT. THE IMPRINT THAT APPEARS
10 ON THE BACK OF THE REGISTRATION SLIP WHICH IS OUR DOCUMENT
11 68-B, HOW IS THAT MADE?

12 A BY MAKING A PHOTOCOPY OF THE FRONT OF THE
13 CARD.

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38-4

1 Q AND IS THIS PHOTOCOPY -- LET ME BACK UP A
2 LITTLE BIT.

3 IS 68-B, DOES THIS PURPORT TO BE A COPY OF
4 THE BACK OF 68-A?

5 A YES, IT IS.

6 AND HOW DO THE CREDIT CARD IMPRINTS GET ON
7 THE BACK OF THE REGISTRATION CARD?

8 A WE HAVE A CREDIT MACHINE WITH A STAMP.

9 Q SO DO YOU ACTUALLY TAKE THE CREDIT CARD AND
10 PUT IT IN THE MACHINE AND PUT THE REGISTRATION CARD ON
11 THERE?

12 A YES, WE DO, WITH THE CARD IN. AND THEN I
13 CHANGE THE VOUCHER FOR THE EXPRESS CHECK-OUT OR THE REGISTRATION
14 CARD. THOSE ARE THE THINGS THAT CHANGE. THE CARD FITS
15 IN THE MACHINE.

16 Q OKAY. BUT IF THIS DOCUMENT THAT IS 68-A AND -B
17 WERE THE ORIGINAL AS OPPOSED TO A COPY, FIRST OF ALL, IT WOULD
18 BE ONE PIECE OF PAPER INSTEAD OF TWO, RIGHT?

19 A THAT'S CORRECT.

20 Q THEN WHEN THE PERSON COMES INTO THE HOTEL, YOU
21 TAKE THE CREDIT CARD AND YOU PUT IT IN THE MACHINE AND THEN YOU
22 PUT THE REGISTRATION CARD IN THERE AND IMPRINT THE FRONT OF
23 THE CREDIT CARD ON THERE, CORRECT?

24 A WE FLIP OVER THE REGISTRATION CARD TO IMPRINT
25 THE FRONT OF THE CREDIT CARD.

26 Q BUT IT DOESN'T IMPRINT THE BACK OF THE CARD?

27 A NO, IT DOESN'T.

28 Q AND WHEN YOU SAY THAT IT IS A XEROX OF IT,

1 WHEN YOU SAID A MOMENT AGO THAT IT WAS A XEROX OF THE
2 CARD, YOU ARE REFERRING TO 68-B AS BEING A XEROX OF ACTUALLY
3 THE BACK OF THE REGISTRATION CARD?

4 A THAT'S CORRECT.

5 Q YOU DIDN'T DO ANY XEROXES AT THE TIME THE
6 GUEST CHECKS IN?

7 A NO, WE DON'T.

8 Q ONE OF THE TWO CREDIT CARDS INDICATED ON 68-B
9 WAS TAKEN BY YOU AND EVENTUALLY TORN UP AND SENT TO AMERICAN
10 EXPRESS, CORRECT?

11 A THAT'S CORRECT.

12 Q WHAT HAPPENED TO THE OTHER ONE?

13 A IT WAS GIVEN BACK TO MR. LEVIN.

14 Q OR AT LEAST THE PERSON YOU KNEW AS MR. LEVIN?

15 A THAT'S CORRECT.

16 Q THAT IS THE PERSON WHO IS DEPICTED IN 175?

17 A THAT'S CORRECT.

18 Q AND DO YOU KNOW OTHER THAN YOUR KNOWLEDGE OF IT
19 BEING GIVEN BACK TO HIM, WHAT HAPPENED TO IT AFTER THAT?

20 A NO, I DO NOT.

21 Q AT THE TIME THAT YOU SAW HIM IN YOUR OFFICE AND
22 HE GAVE YOU THAT SECOND CARD WHICH WAS THE MASTERCARD, YOU GAVE
23 IT BACK TO HIM?

24 A YES.

25 Q DO YOU HAVE ANY RECOLLECTION AT THAT POINT
26 WHETHER THERE WAS OR WAS NOT A SIGNATURE ON THE BACK OF EITHER
27 OR BOTH OF THOSE CREDIT CARDS?

28 A NO. I DON'T HAVE A RECOLLECTION.

MR. WAPNER: MAY I HAVE A MOMENT, YOUR HONOR?

THE COURT: YES.

(PAUSE.)

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39 FC.

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1 Q THE WRITING THAT IS ON THE FRONT OF 68-A, WHERE
2 IT SAYS "NAME" AND "RONALD LEVIN," WHEN IS THAT PLACED ON
3 THERE WITH RESPECT TO WHEN THE PERSON CHECKS INTO THE HOTEL?

4 A IT SHOULD BE AT THE TIME OF REGISTRATION.

5 Q THAT IS DONE IN -- THAT IS IN THE NORMAL COURSE
6 OF BUSINESS, THAT IS, IT IS PUT ON THERE AT THE TIME OF
7 REGISTRATION?

8 A YES.

9 Q AND THE WRITING WHERE IT SAYS "105 PECK STREET,"
10 WHEN IS THAT PUT ON THERE?

11 A AT THE SAME TIME.

12 Q AND THE WRITING THAT SAYS "WESTWOOD, L.A. 90048,"
13 WHEN IS THAT PUT ON THERE?

14 A THE SAME TIME.

15 Q AND THAT IS AT THE TIME THAT THE PERSON CHECKS
16 IN; IS THAT RIGHT?

17 A THAT'S CORRECT.

18 Q AND WHO WRITES IN THAT INFORMATION?

19 A THAT SIDE IS FILLED IN BY THE GUEST.

20 Q AND DOES THAT SIDE CHANGE IF THE ROOM IS CHANGED?

21 A NO, IT DOES NOT.

22 Q NOW IS THERE SOME WRITING ON THE RIGHT-HAND SIDE
23 OF THAT DOCUMENT THAT INDICATES THE ROOM NUMBER?

24 A I AM SORRY?

25 Q ON THE RIGHT-HAND SIDE OF PEOPLE'S 68, IS THERE
26 SOME WRITING THAT INDICATES WHAT THE ROOM NUMBER IS?

27 A YES.

28 Q THEN THERE IS AN ENTRY THAT WAS SCRATCHED OUT

1 AND ANOTHER ROOM NUMBER PUT IN; IS THAT RIGHT?

2 A YES.

3 Q DO YOU KNOW WHAT DATE THAT WAS DONE?

4 A WHEN THE SECOND ROOM WAS FILLED IN?

5 Q YES.

6 A I CAN ONLY ASSUME IT WAS DONE WHEN THE ROOM
7 CHANGE WAS INITIATED, WHICH WOULD HAVE BEEN ON THE 8TH.

8 Q ALL RIGHT. BUT WHEN THE ROOM CHANGE IS INITIATED,
9 YOU DON'T GET A NEW REGISTRATION CARD FILLED OUT, DO YOU?

10 A NO, YOU DON'T.

11 Q SO ALL OF THE WRITING THERE WHERE IT SAYS
12 "RONALD LEVIN, 105 PECK STREET, WESTWOOD," ET CETERA, WAS
13 PUT IN ON JUNE 7TH WHEN THE GUEST CHECKS IN?

14 A THAT'S CORRECT.

15 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

16 THE COURT: ALL RIGHT, THANK YOU. THIS WITNESS MAY
17 BE EXCUSED?

18 MR. WAPNER: I HAVE NO OBJECTION.

19 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU ARE
20 EXCUSED.

21 MR. WAPNER: COULD WE RECESS FOR THE DAY? WE ARE NOT
22 GOING TO FINISH WITH THE WITNESS, I AM SURE. I HAVE OTHER
23 WITNESSES BUT IT DOESN'T SEEM WE WILL FINISH.

24 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF THE
25 JURY, I AM GOING TO GIVE YOU A LONG WEEKEND. WE WILL TAKE
26 AN ADJOURNMENT NOW UNTIL TUESDAY MORNING AT 10:30.

27 AND THE SAME ADMONITION I GAVE YOU WOULD STILL
28 APPLY.

1 AND YOU ALL HAVE A VERY, VERY DELIGHTFUL
2 WEEKEND. THANK YOU VERY MUCH.

3 (AT 4:25 P.M., AN ADJOURNMENT WAS TAKEN
4 UNTIL TUESDAY, FEBRUARY 17, 1987, AT 10:30 A.M.)

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